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THE

DEBATES

OF THE

CONSTITUTIONAL CONVENTION;

OF THE STATE OF IOWA,

ASSEMBLED AT IOWA CITY,

MONDAY, JANUARY 19, 1857.

BEING A FULL AND COMPLETE REPORT OF THE DEBATES AND PROCEEDINGS, BY AUTHORITY OF THE CONVENTION; ACCOMPANIED, FOR PURPOSES OF REFERENCE, BY A COPIOUS INDEX OF SUBJECTS, AND REMARKS OF MEMBERS THEREON.

OFFICIAL.

W. BLAIR LORD, REPORTER.

CHARLES B. COLLAR,
HENRY M. PARKHURST, } ASSISTANTS.

DAVENPORT:

LUSE, LANE & CO., PUBLISHERS, JOB PRINTERS, AND BOOK-BINDERS.

1857.

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NOTE.

As the debates and proceedings of the convention that framed the new constitution, were ordered to be published, not only for the information of the people of the State, who were to be called upon to vote upon the new organic law, but also to afford information to the bench and bar, in relation to the proper construction of the various provisions of the constitution, it will not be inappropriate to publish in connection therewith, those acts of Congress relative to the formation of the territorial and State governments of Iowa. They are put in the second volume of the Debates, in order that they may be contained in the same volume with the old and new constitutions, for more convenient reference.

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...LIFORNIA.

ORGANIC LAW OF WISCONSIN.

AN ACT establishing the territorial government of Wisconsin.

Be it enacted, by the senate and house of representatives of the United States of America in congress assembled, That from and after the third day of July next, the country included within the following boundaries shall constitute a separate territory, for the purpose of temporary government, by the name of Wisconsin; that is to say: Bounded on the east by a line drawn from the northeast corner of the State of Illinois, through the middle of Lake Michigan, to a point in the middle of said lake, and opposite the main channel of Green Bay, and through said channel and Green Bay to the mouth of the Menomonie river; thence through the middle of the main channel of said river, to that head of said river nearest to the Lake of the Desert; thence in a direct line to the middle of said lake; thence through the middle of the main channel of the Montreal river, to its mouth; thence with a direct line across Lake Superior, to where the territorial line of the United States last touches said lake northwest; thence on the north, with the said territorial line, to the White-earth river; on the west, by a line from the said boundary line following down the middle of the main channel of White-earth river, to the Missouri river, and down the middle of the main channel of the Missouri river to a point due west from the northwest corner of the State of Missouri; and on the south, from said point, due east to the northwest corner of the State of Missouri; and thence with the boundaries of the States of Missouri and Illinois, as already fixed by acts of Congress.

And after the said third day of July next, all power and authority of the government of Michigan in and over the territory hereby constituted, shall cease: Provided, That nothing in this act contained shall be construed to impair the rights of person or property now appertaining to any Indians within the said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to impair the obligations of any treaty now existing between the United States and such Indians, or to impair or anywise to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, or law, or otherwise, which it would have been competent to the government to make if this act had never been passed; Provided, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing the territory hereby established into one or more other territories, in such manner, and at such times, as Congress shall, in its discretion, deem convenient and proper, or from attaching any portion of said territory to any other State or territory of the United States.

Sec. 2. And be it further enacted, That the executive power and authority in and over the said territory shall be vested in a governor, who shall hold his office for three years, unless sooner removed by the President of the United States. The governor shall reside with the

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said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve of all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the said territory, and reprieves for offenses against the laws of the United States, until the decision of the President can be made known thereon; he shall dommission all officers who shall be appointed to office under the laws of the said territory, and shall take care that the laws be faithfully executed.

Sec. 3. And be it further enacted, That there shall be a secretary of the said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings on or before the first Monday in December in each year, to the President of the United States: and at the same time, two copies of the laws to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or necessary absence, of the governor from the territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence.

Sec. 4. And be it further enacted, That the legislative power shall be vested in a governor, and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue four years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue two years. An apportionment shall be made, as nearly equal as practicable, among the several counties, for the election of the council and representatives, giving to each section of the territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the said members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected. Previous to the first election, the governor of the territory shall cause the census or enumeration of the inhabitants of the several counties in the territory to be taken and made by the sheriffs of the said counties, respectively, and returns thereof made by said sheriffs to the governor. The first election shall be held at such time and place, and be conducted in such manner as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties is entitled under this act. The number of persons authorized to be elected having the greatest number of votes in each of the said counties for the council shall be declared, by the said governor, to be duly elected to the said council; and the person or persons having the greatest number of votes for the house of representatives, equal to the number to which each county may be entitled, shall also be declared, by the governor, to be duly elected; Provided, The governor shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place on such day as he shall appoint; but, thereafter, the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the annual commencement of the session of the said legislative assembly; but no session, in any year, shall exceed the term of seventy-five days.

Sec. 5. And be it further enacted, That every free white male citizen of the United States, above the age of twenty-one years, who shall have been an inhabitant of said territory at the time of its organization, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters at all subsequent elections shall be such as shall be determined by the legislative assembly; Provided, That the right of suffrage shall be exercised only by citizens of the United States.

Sec. 6. And be it further enacted, That the legislative power of the territory shall extend to all rightful subjects of legislation; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon

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the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws of the governor and legislative assembly shall be submitted to, and, if disapproved by the Congress of the United States, the same shall be null and of no effect.

Sec. 7. And be it further enacted, That all township officers and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts, shall be elected by the people, in such manner as may be provided by the governor and legislative assembly. The governor shall nominate, and, by and with the advice and consent of the legislative council, shall appoint all judicial officers, justices of the peace, sheriffs, and all militia officers, except those of the staff, and all civil officers not herein provided for. Vacancies occurring in the recess of the council shall be filled by appointments from the governor, which shall expire at the end of the next session of the legislative assembly; but the said governor may appoint, in the first instance, the aforesaid officers, who shall hold their offices until the end of the next session of the said legislative assembly.

Sec. 8. And be it further enacted, That no member of the legislative assembly shall hold or be appointed to any office created, or the salary or emoluments of which shall have been increased whilst he was a member, during the term for which he shall have been elected, and for one year after the expiration of such term; and no person holding a commission under the United States, or any of its officers, except as a militia officer, shall be a member of the said council, or shall hold any office under the government of the said territory.

Sec. 9. And be it further enacted, That the judicial power of the said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice, and two associate judges, any two of whom shall be a quorum, and who shall hold a term at the seat of government of the said territory, annually, and they shall hold their offices during good behavior. The said territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts, by one of the judges of the supreme court, at such times and places as may be prescribed by law. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be limited by law: Provided, however, That justices of the peace shall not have jurisdiction of any matter of controversy, when the title or boundaries of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars. And the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court shall appoint its clerk, who shall keep his office at the place where the court may be held, and the said clerks shall also be the registers in chancery; and any vacancy in said office of clerk, happening in the vacation of said court, may be filled by the judge of said district, which appointment shall continue until the next term of said court. And writs of error, bills of exception, and appeals in chancery causes, shall be allowed in all cases, from the final decisions of the said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court, shall a trial by jury be allowed in said court. The supreme court may appoint its own clerk, and every clerk shall hold his office at the pleasure of the court by which he shall have been appointed. And writs of error and appeals from the final decisions of the said supreme court shall be allowed and taken to the supreme court of the United States, in the same manner, and under the same regulations, as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States. And the first six days of every term of the said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws. And writs of error, and appeals from the final decisions of the said courts, in all such cases, shall be made to the supreme court of the territory, in the same manner as in other cases. The said clerks shall receive, in all such cases, the same fees which the clerk of the district court of the United States in the northern district of the State of New York receives for similar services.

Sec. 10. And be it further enacted, That

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there shall be an attorney for the said territory appointed, who shall continue in office four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the Michigan territory. There shall also be a marshal for the territory appointed, who shall hold his office for four years, unless sooner removed by the President, who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the northern district of the State of New York; and shall, in addition, be paid the sum of two hundred dollars, annually, as a compensation for extra services.

Sec. 11. And be it further enacted, That the governor, secretary, chief justice, and associate judges, attorney, and marshal, shall be nominated, and by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such respectively, take an oath or affirmation before some judge or justice of the peace in the existing territory of Michigan, duly commissioned and qualified to administer an oath or affirmation, to support the constitution of the United States, and for the faithful discharge of the duties of their respective offices; which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken, and such certificate shall be received and recorded by the said secretary among the executive proceedings. And afterwards the chief justice, and associate judges, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars for his services as governor and as superintendent of Indian affairs. The said chief justice, and associate judges, shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of twelve hundred dollars. The said salaries shall be paid quarterly, at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day, during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually-traveled route. There shall be appropriated, annually, the sum of three hundred and fifty dollars, to be expended by the governor to defray the contingent expenses of the territory, and there shall also be appropriated annually, a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the territory shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

Sec. 12. And be it further enacted, That the inhabitants of the said territory shall be entitled to, and enjoy, all and singular the rights, privileges, and advantages, granted and secured to the people of the territory of the United States north-west of the river Ohio, by the articles of the compact contained in the ordinance for the government of the said territory, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven; and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of the said territory. The said inhabitants shall also be entitled to all the rights, privileges, and immunities, heretofore granted and secured to the territory of Michigan, and to its inhabitants, and the existing laws of the territory of Michigan shall be extended over said territory, so far as the same shall not be incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed, by the governor and legislative assembly of the said territory of Wisconsin; and further, the laws of the United States are hereby extended over, and shall be in force in said territory, so far as the same, or any provisions thereof, may be applicable.

Sec. 13. And be it further enacted, That

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the legislative assembly of the territory of Wisconsin shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said session, or as soon thereafter as may by them be deemed expedient, the said governor and legislative assembly shall proceed to locate and establish the seat of government for said territory, at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And twenty thousand dollars, to be paid out of any money in the treasury, not otherwise appropriated, is hereby given to the said territory, which shall be applied by the governor and legislative assembly to defray the expenses of erecting public buildings at the seat of government.

Sec. 14. And be it further enacted, That a delegate to the house of representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been granted to the delegates from the several territories of the United States to the said house of representatives. The first election shall be held at such time and place or places, and be conducted in such manner as the governor shall appoint and direct. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given to the person so elected.

Sec. 15. And be it further enacted, That all suits, process, and proceedings, and all indictments and informations which shall be undetermined on the third day of July next, in the courts held by the additional judge for the Michigan territory, in the counties of Brown and Iowa; and all suits, process and proceedings, and all indictments and informations which shall be undetermined on the said day of July, in the county courts of the several counties of Crawford, Brown, Iowa, Dubuque, Milwaukee, and Des Moines, shall be transferred to be heard, tried, prosecuted, and determined, in the district courts hereby established, which may include the said counties.

Sec. 16. And be it further enacted, That all causes which shall have been or may be removed from the courts held by the additional judge for the Michigan territory, in the counties of Brown and Iowa, by appeal or otherwise, into the supreme court for the territory of Michigan, and which shall be undetermined therein on the third day of July next, shall be certified by the clerk of the said supreme court, and transferred to the supreme court of said territory of Wisconsin, there to be proceeded in to final determination, in the same manner that they might have been in the said supreme court of the territory of Michigan.

Sec. 17. And be it further enacted, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated to be expended by and under the direction of the legislative assembly of said territory, in the purchase of a library for the accommodation of said assembly, and of the supreme court hereby established.

APPROVED, APRIL 20, 1836.

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ORGANIC LAW OF IOWA.

AN ACT to divide the territory of Wisconsin, and to establish the territorial government of Iowa.

Be it enacted by the senate and house of representatives of the United States of America, in congress assembled, That, from and after the third day of July next, all that part of the present territory of Wisconsin which lies west of the Mississippi river, and west of a line drawn due north from the head waters or sources of the Mississippi to the territorial line, shall, for the purposes of temporary government, be and constitute a separate territorial government, by the name of Iowa; and that, from and after the said third day of July next, the present territorial government of Wisconsin shall extend only to that part of the present territory of Wisconsin which lies east of the Mississippi river. And after the said third day of July next, all power and authority of the government of Wisconsin, in and over the territory hereby constituted, shall cease: Provided, That nothing in this act contained shall be construed to impair the rights of person or property now appertaining to any Indians within the said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to impair the obligations of any treaty now existing between the United States and such Indians, or to impair or anywise to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, or law, or otherwise, which it would have been competent to the government to make, if this act had never been passed: Provided, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing the territory hereby established into one or more other territories, in such manner, and at such times, as congress shall, in its discretion, deem convenient and proper, or from attaching any portion of said territory to any other State or territory of the United States.

Sec. 2. And be it further enacted, That the executive power and authority in and over the said territory of Iowa, shall be vested in a governor, who shall hold his office for three years, unless sooner removed by the President of the United States. The governor shall reside within the said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve of all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the said territory, and reprieves for offenses against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, and shall take care that the laws be faithfully executed.

Sec. 3. And be it further enacted, That there shall be a secretary of the said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and

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preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings on or before the first Monday in December in each year, to the President of the United States; and at the same time, two copies of the laws to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or necessary absence, of the governor from the territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

Sec. 4. And be it further enacted, That the legislative power shall be vested in a governor, and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties, for the election of the council and representatives, giving to each section of the territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the said members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected. Previous to the first election, the governor of the territory shall cause the census or enumeration of the inhabitants of the several counties in the territory to be taken and made by the sheriffs of the said counties, respectively, unless the same shall have been taken within three months previously to the third day of July next, and returns thereof made by said sheriffs to the governor. The first election shall be held at such time and place, and be conducted in such manner as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts are entitled under this act. The number of persons authorized to be elected having the greatest number of votes in each of the said counties or districts for the council shall be be declared, by the said governor, to be duly elected to the said council; and the person or persons having the greatest number of votes for the house of representatives, equal to the number to which each county may be entitled, shall also be declared, by the governor, to be duly elected; Provided, The governor shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place on such day as he shall appoint; but, thereafter, the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the annual commencement of the session of the said legislative assembly; but no session, in any year, shall exceed the term of seventy-five days.

Sec. 5. And be it further enacted, That every free white male citizen of the United States, above the age of twenty-one years, who shall have been an inhabitant of said territory at the time of its organization, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters at all subsequent elections shall be such as shall be determined by the legislative assembly; Provided, That the right of suffrage shall be exercised only by citizens of the United States.

Sec. 6. And be it further enacted, That the legislative power of the territory shall extend to all rightful subjects of legislation; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws of the governor and legislative assembly shall be submitted to, and, if disapproved by the Congress of the United States, the same shall be null and of no effect.

Sec. 7. And be it further enacted, That all township officers and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts, shall be elected by the people, in such manner as is now prescribed by the laws of the territory of Wisconsin, or as may, after the first election, be provided by the gove r

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nor and legislative assembly of Iowa territory. The governor shall nominate, and, by and with the advice and consent of the legislative council, shall appoint all judicial officers, justices of the peace, sheriffs, and all militia officers, except those of the staff, and all civil officers not herein provided for. Vacancies occurring in the recess of the council shall be filled by appointments from the governor, which shall expire at the end of the next session of the legislative assembly; but the said governor may appoint, in the first instance, the aforesaid officers, who shall hold their offices until the end of the next session of the said legislative assembly.

Sec. 8. And be it further enacted, That no member of the legislative assembly shall hold or be appointed to any office created, or the salary or emoluments of which shall have been increased whilst he was a member, during the term for which he shall have been elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, or any of its officers, except as a militia officer, shall be a member of the said council or house of representatives, or shall hold any office under the government of the said territory.

Sec. 9. And be it further enacted, That the judicial power of the said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice, and two associate judges, any two of whom shall be a quorum, and who shall hold a term at the seat of government of the said territory, annually, and they shall hold their offices during the term of four years. The said territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts, by one of the judges of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointment, respectively, reside in the districts which shall be assigned to them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be limited by law: Provided, however, That justices of the peace shall not have jurisdiction of any matter of controversy, when the title or boundaries of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars. And the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court shall appoint its clerk, who shall keep his office at the place where the court may be held, and the said clerks shall also be the registers in chancery; and any vacancy in said office of clerk, happening in the vacation of said court, may be filled by the judge of said district, which appointment shall continue until the next term of said court. And writs of error, bills of exception, and appeals in chancery causes, shall be allowed in all cases, from the final decisions of the said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court, shall a trial by jury be allowed in said court. The supreme court may appoint its own clerk, and every clerk shall hold his office at the pleasure of the court by which he shall have been appointed. And writs of error and appeals from the final decisions of the said supreme court shall be allowed and taken to the supreme court of the United States, in the same manner, and under the same regulations, as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States. And the first six days of every term of the said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws. And writs of error, and appeals from the final decisions of the said courts, in all such cases, shall be made to the supreme court of the territory, in the same manner as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Wisconsin territory now receives for similar services.

Sec. 10. And be it further enacted, That there shall be an attorney for the said territory appointed, who shall continue in office four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the Wisconsin territory. There shall also be a marshal for the territory appointed, who shall hold his office for four years, unless sooner removed by the President, who shall execute all process is-

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suing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Wisconsin; and shall, in addition, be paid the sum of two hundred dollars, annually, as a compensation for extra services.

Sec. 11. And be it further enacted, That the governor, secretary, chief justice, and associate judges, attorney, and marshal, shall be nominated, and by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such respectively, take an oath or affirmation before some judge or justice of the peace in the existing territory of Wisconsin, duly commissioned and qualified to administer an oath or affirmation, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and for the faithful discharge of the duties of their respective offices; which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken, and such certificate shall be received and recorded by the said secretary among the executive proceedings. And afterwards the chief justice, and associate judges, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The said chief justice, and associate judges, shall each receive an annual salary of fifteen hundred dollars. The secretary shall receive an annual salary of twelve hundred dollars. The said salaries shall be paid quarter yearly, at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day, during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually-traveled route. There shall be appropriated, annually, the sum of three hundred and fifty dollars, to be expended by the governor to defray the contingent expenses of the territory, and there shall also be appropriated annually, a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the territory shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

Sec. 12. And be it further enacted, That the inhabitants of the said territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the territory of Wisconsin, and to its inhabitants; and the existing laws of the territory of Wisconsin shall be extended over said territory, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of the said territory of Iowa; and, further, the laws of the United States are hereby extended over, and shall be in force in said territory, so far as the same, or any provision thereof, may be applicable.

Sec. 13. And be it further enacted, That the legislative assembly of the territory of Iowa shall hold its session at such time and place, in said territory, as the governor thereof shall appoint and direct; and at said session, or as soon thereafter as may by them be deemed expedient, the said governor and legislative assembly shall proceed to locate and establish the seat of government for said territory, at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the governor and legislative assembly. And the sum of twenty thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby granted to the said territory of Iowa, which shall be applied by the governor and legislative assembly thereof, to defray the expenses of erecting public buildings at the seat of government.

Sec. 14. And be it further enacted, That

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delegate to the house of representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly who shall be entitled to the same rights and privileges as have been granted to the delegates from the several territories of the United States to the said house of representatives. The first election shall be held at such time and place or places, and be conducted in such manner as the governor shall appoint and direct. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given to the person so elected.

Sec. 15. And be it further enacted, That all suits, process, and proceedings, and all indictments and information, which shall be undetermined on the third day of July next, in the district courts of Wisconsin territory, west of the Mississippi river, shall be transferred to be heard, tried, prosecuted and determined in the district courts hereby established, which may include the said counties.

Sec. 16. And be it further enacted, That all justices of the peace, constables, sheriffs, and all other executive and judicial officers, who shall be in office on the third day of July next, in that portion of the present territory of Wisconsin, which will then, by this act, become the territory of Iowa, shall be, and are hereby authorized and required to continue to exercise and perform the duties of their respective offices, as officers of the territory of Iowa, temporarily, and until they or others shall be duly appointed to fill their places by the territorial government of Iowa, in the manner hereby directed; provided, that no officer shall hold or continue in office by virtue of this provision, over twelve months from the said third day of July next.

Sec. 17. And be it further enacted, That all causes which shall have been or may be removed from the courts held by the present territory of Wisconsin, in the counties west of the Mississippi river, by appeal or otherwise, into the supreme court for the territory of Wisconsin, and which shall be undetermined therein on the third day of July next, shall be certified by the clerk of the said supreme court, and transferred to the supreme court of said territory of Iowa, there to be proceeded in to final determination, in the same manner that they might have been in the said supreme court of the territory of Wisconsin.

Sec. 18. And be it further enacted, That the sum of five thousand dollars be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to be expended by, and under the direction of the governor of said territory of Iowa, in the purchase of a library, to be kept at the seat of government, for the accommodation of the governor, legislative assembly, judges, secretary, marshal, and attorney of said territory, and such other persons as the governor and legislative assembly shall direct.

Sec. 19. And be it further enacted, That from and after the day named in this act for the organization of the territory of Iowa, the term of the members of the council and house of representatives of the territory of Wisconsin, shall be deemed to have expired, and an entirely new organization of the council and house of representatives of the territory of Wisconsin, as constituted by this act, shall take place as follows: As soon as practicable, after the passage of this act, the governor of the territory of Wisconsin shall apportion the thirteen members of the council, and twenty-six members of the house of representatives among the several counties or districts comprised within said territory, according to their population, as nearly as may be, (Indians excepted.) The first election shall be held at such time as the governor shall appoint and direct, and shall be conducted, and returns thereof made, in all respects, according to the provisions of the laws of said territory, and the governor shall declare the person having the greatest number of votes to be elected, and shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. The persons thus elected shall meet at Madison, the seat of government, on such day as he shall appoint, but thereafter, the apportioning of the representation in the several counties to the council and house of representatives, according to population, the day of their election, and the day for the commencement of the session of the legislative assembly shall be prescribed by law.

Sec. 20. And be it further enacted, That temporarily, and until otherwise provided by law of the legislative assembly, the governor of the territory of Iowa may define the judicial districts of said territory, and assign the judges who may be appointed for said territory, to the several districts, and also appoint the time for holding courts in the several counties in each

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district, by proclamation to be issued by him; but the legislative assembly, at their first, or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times of holding the courts, or any of them.

APPROVED, JUNE 12, 1838.

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AMENDMENTS TO THE ORGANIC LAW.

AN ACT to alter and amend the organic law of the territories of Wisconsin and Iowa.

Be it enacted by the senate and house of representatives of the United States of America, in congress assembled, That every bill which shall have passed the council and house of representatives of the territories of Iowa and Wisconsin shall, before it become a law, be presented to the governor of the territory; if he approve he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But, in all such cases, the voters of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted,) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly by adjournment prevent its return, in which case it shall not be a law.

Sec. 2. And be it further enacted, That this act shall not be so construed as to deprive congress of the right to disapprove of any law passed by the said legislative assembly, or in any way to impair or alter the power of congress over laws passed by said assembly.

APPROVED, MARCH 3d, 1839.

AN ACT to authorize the election or appointment of certain officers in the territory of Iowa and for other purposes.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the legislative assembly of the territory of Iowa, shall be, and are hereby authorized to provide by law for the election or appointment of sheriffs, judges of probate, justices of the peace, and county surveyors, within the said territory, in such way or

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manner, and at such times and places as to them may seem proper; and after a law shall have been passed by the legislative assembly for that purpose, all elections or appointments of the above named officers thereafter to be had or made shall be in pursuance of such law.

Sec. 2. And be it further enacted, That the term of service of the present delegate for said territory of Iowa shall expire on the twenty-seventh day of October, eighteen hundred and forty; and the qualified electors of said territory may elect a delegate to serve from the said twenty-seventh day of October to the fourth day of March thereafter, at such time and place as shall be prescribed by law by the legislative assembly, and thereafter a delegate shall be elected, at such time and place as the legislative assembly may direct, to serve for a congress, as members of the house of representatives are now elected.

APPROVED, MARCH 3d, 1839.

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ADMISSION OF IOWA.

AN ACT for the admission of the States of Iowa and Florida into the Union.

WHEREAS, the people of the territory of Iowa did, on the seventh day of October, eighteen hundred and forty-four, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government; and whereas, the people of the territory of Florida did, in like manner, by their delegates, on the eleventh day of January, eighteen hundred and thirty-nine, form for themselves a constitution and State government, both of which said constitutions are republican; and said conventions having asked the admission of their respective territories into the Union as States, on equal footing with the original States:

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the States of Iowa and Florida be, and the same are hereby declared to be States of the United States of America, and are hereby admitted into the Union on equal footing with the original States, in all respects whatsoever.

Sec. 2. And be it further enacted, That the following shall be the boundaries of the said State of Iowa, to wit: Beginning at the mouth of the Des Moines river, at the middle of the Mississippi, thence by the middle of the channel of that river to a parallel of latitude passing through the mouth of the Mankato, or Blue Earth river, thence west along the said parallel of latitude to a point where it is intersected by a meridian line, seventeen degrees and thirty minutes west of the meridian of Washington city, thence due south to the northern boundary line of the State of Missouri, thence eastwardly following that boundary to the point at which the same intersects the Des Moines river, thence by the middle of the channel of that river to the place of beginning.

Sec. 3. And be it further enacted, That the said State of Iowa shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State of Iowa, so far as the said rivers shall form a common boundary to said State, and any other State or States now or hereafter to be formed or bounded by the same: Such rivers to be common to both: And that the said river Mississippi, and the navigable waters leading into the same, shall be common highways, and forever free as well as to the inhabitants of said State, as to all other citizens of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State of Iowa.

Sec. 4. And be it further enacted, That it is made and declared to be a fundamental condition of the admission of said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa shall be assented to by a majority of the qualified electors at their township elections, in the manner and at the time prescribed in the sixth section of the thirteenth article of the constitution adopted at Iowa

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City the first day of November, anno Domini eighteen hundred and forty-four, or by the legislature of said State. And so soon as such assent shall be given, the President of the United States shall announce the same by proclamation; and therefrom without further proceedings on the part of congress the admission of the said State of Iowa into the Union, on an equal footing in all respects whatever with the original States, shall be considered as complete.

Sec. 5. And be it further enacted, That said State of Florida shall embrace the territories of East and West Florida, which by the treaty of amity, settlement and limits between the United States and Spain, on the twenty-second day of February, eighteen hundred and nineteen, were ceded to the United States.

Sec. 6. And be it further enacted, That until the next census and apportionment shall be made, each of said States of Iowa and Florida shall be entitled to one representative in the house of representatives of the United States.

Sec. 7. And be it further enacted, That said States of Iowa and Florida are admitted into the Union on the express condition that they shall never interfere with the primary disposition of the public lands lying within them, nor levy any tax on the same whilst remaining the property of the United States: Provided, That the ordinance of the convention that formed the constitution of Iowa, and which is appended to the said constitution, shall not be deemed or taken to have any effect or validity, or to be recognized as in any manner obligatory upon the government of the United States.

APPROVED, MARCH 3, 1845.

AN ACT supplemental to the act for the admission of the States of Iowa and Florida into the Union.

BE it enacted by the senate and house of representatives of the United States of America in congress assembled, That the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Iowa as elsewhere within the United States.

Sec. 2. And be it further enacted, That the said State shall be one district, and be called the district of Iowa; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions of the said district court annually, on the first Monday in January, and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside and keep the records of the said court at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is by law entitled for similar services.

Sec. 3. And be it further enacted, That there shall be allowed to the judge of the said district court the annual compensation of fifteen hundred dollars, to commence from the date of his appointment, to be paid quarterly at the treasury of the United States.

Sec. 4. And be it further enacted, That there shall be appointed in the said district, a person learned in the law, to act as attorney for the United States; who shall, in addition to his stated fees, be paid annually by the United States two hundred dollars, as a full compensation for all extra services; the said payment to be made quarterly, at the treasury of the United States.

Sec. 5. And be it further enacted, That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed and allowed to marshals in other districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

Sec. 6. And be it further enacted, That in lieu of the propositions submitted to the congress of the United States, by an ordinance passed on the first day of November, eighteen hundred and forty-four, by the convention of delegates at

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Iowa City, assembled for the purpose of making a constitution for the State of Iowa, which are hereby rejected, the following propositions be, and the same are hereby offered to the legislature of the State of Iowa, for their acceptance or rejection; which, if accepted under the authority conferred on the said legislature by the convention which framed the constitution of the said State, shall be obligatory upon the United States.

FIRST—That section numbered sixteen in every township of the public lands, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

SECOND—That the seventy-two sections of land set apart and reserved for the use and support of a university, by an act of congress approved on the twentieth day of July, eighteen hundred and forty, entitled "An act granting two townships of land for the use of a university in the territory of Iowa," are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

THIRD—That five entire sections of land to be selected and located under the direction of the legislature, in legal divisions of not less than one quarter section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the State for the purpose of completing the public buildings of the said State, or for the erection of public buildings at the seat of government of the said State, as the legislature may determine and direct.

FOURTH—That all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said State for its use; the same to be selected by the legislature thereof, within one year after the admission of said said State, and the same, when so selected, to be used on such terms, conditions, and regulations, as the legislature of the State shall direct: Provided, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: And provided, also, That the general assembly shall never lease or sell the same, at any one time, for a longer period than ten years, without the consent of congress.

FIFTH—That five per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by congress, from and after the admission of said State, after deducting all the expenses incident to the same, shall be appropriated for making public roads and canals within the said State, as the legislature may direct: Provided, That the five foregoing propositions herein offered are on the condition that the legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide by an ordinance, irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

APPROVED, MARCH 3, 1845.

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ACCEPTING PROPOSITIONS OF CONGRESS.

AN ACT AND ORDINANCE accepting the propositions made by Congress on the admission of Iowa into the Union as a State.

Section 1. Be it enacted and ordained by the General Assembly of the State of Iowa, That the propositions to the State of Iowa on her admission into the Union, made by the act of congress, entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," approved March 3, 1845, and which are contained in the sixth section of that act, are hereby accepted in lieu of the propositions submitted to congress by an ordinance, passed on the first day of November, eighteen hundred and forty-four, by the convention of delegates which assembled at Iowa City on the first Monday of October, eighteen hundred and forty-four, for the purpose of forming a constitution for said State, and which were rejected by congress: Provided, The general assembly shall have the right, in accordance with the provisions of the second section of the tenth article of the constitution of Iowa, to appropriate the five per cent. of the net proceeds of sales of all public lands lying within the State which have been or shall be sold by congress from and after the admission of said State, after deducting all expenses incident to the same, to the support of common schools.

Sec. 2. And be it further enacted and ordained, as conditions of the grants specified in the propositions first mentioned in the foregoing section, irrevocable and unalterable without the consent of the United States, that the State of Iowa will never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations congress may gnd necessary for securing the title in such soil io the bona fide purchasers thereof; and that no tax shall be imposed on lands, the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty lands granted, or hereafter to be granted, for military service during the late war with Great Britain, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or other purposes, for the term of three years from and after the dates of the patents respectively.

Sec. 3. It is hereby made the duty of the secretary of state, after the taking effect of this act, to forward one copy of the same to each of our senators and representatives in congress, who are hereby required to procure the consent of congress, to the diversion of the five per cent. fund indicated in the proviso to the first section of this act.

Sec. 4. This act shall take effect from and after its publication in the weekly newspapers printed in Iowa City.

APPROVED, JANUARY 15, 1849.

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DEBATES AND PROCEEDINGS

OF THE

CONSTITUTIONAL CONVENTION

OF THE STATE OF IOWA.

SATURDAY, February 21st, 1857.

The Convention met at 9 o'clock A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of yesterday was read and approved.

Election of United States Senators.

Mr. PALMER. I offer the following resolution:

"*Resolved*, That the Committee on the Legislative Department be instructed to report an additional section to the article on said department providing for the election of United States Senators by a joint convention of the two houses of the General Assembly."

A great deal of difficulty has arisen in many of the States with regard to the election of United States Senators, owing to a defect in the provisions of their constitutions upon this subject. The constitution of the United States simply provides that United States Senators shall be chosen by the legislatures of the different States; but the constitutions of most of the States contain no provisions as to the manner of their election. I believe it has been a matter of doubt with legal gentlemen, whether a joint convention of the two houses of the legislature, in the absence of an express provision of the constitution upon this subject, was the legislature proper. I think by making an express provision here of this kind, we make it the legislature for that purpose. The object of such a provision would be to compel the two branches of the legislature to go into a joint convention for the purpose of electing United States Senators. I believe, as the case now stands, without any provision of this kind, either branch of the legislature may refuse to go into a joint convention. I would make it their duty to go into a joint convention for the election of United States Senators, so that the difficulty I have suggested may be obviated.

Mr. PARVIN. I have no objection to the reference of that resolution, but I consider it entirely unnecessary, for the reason that I think it may conflict with the Constitution of the United States, or the law passed by Congress. I suppose every member has observed, within a few days, that there has been a movement made in the Senate of the United States for the purpose of passing a law upon this subject, which will be uniform throughout every State. We might go to work here and say that the senators shall be elected, as we pass a bill, by the separate concurrence of each House. Another State might provide a different manner for the election of senators. Now, it appears to me that Congress is the proper body to pass a law of this kind; and as they are about moving in the matter, I make the suggestion that it is unnecessary for us to act upon this subject now. I think I can see very easily, if the States undertake to legislate upon this subject in their constitutions or otherwise, that there will be a diversity among them in the manner of electing their senators, as each State would have its separate method of procedure. It is important, therefore, that these elections should be made uniform all over the United States; and Congress, in my opinion, is the proper body to regulate this matter.

I agree with the gentleman from Davis, [Mr. Palmer], that something should be done. We have all seen difficulties growing out of the want of any provisions upon this subject in different States. Two years ago, in the State of Indiana, one branch of the legislature refused to go into joint convention for the election of United States Senators, and the result was that no election took place. This winter, they refused again to go into a joint convention, and the result is, a bogus election has taken place. I make these remarks to show that difficulties have arisen, and that there is a necessity for legislation upon this subject. I doubt the propriety, however, of States providing for elections in a separate and different manner from each other.

Mr. HALL. If we had the power to amend the Constitution of the United States, we might do some good. My opinion is, that every step we take here will make the confusion worse. The Constitution of the United States says that—

"The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years, and each senator shall have one vote."

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We cannot constitute any other body for this purpose, but the legislature; and it must be the body that makes the laws. The meaning of the "legislature" is law-making power. We cannot make a constitutional body differing from what the Constitution of the United States provides. And when gentlemen get up here and undertake to modify and change the Constitution of the United States, they will find it an exceedingly difficult task, and one that is not altogether desirable. We ought to do nothing which would tend to prevent the utmost harmony between the action of the State government and that of the United States government. You cannot say that anything less than the general law-making power of the State can appoint a United States senator.

I do not believe that Congress has the power to put trammels upon our legislature. Gentlemen will find, by the debates that have taken place in Congress, that this subject has been thoroughly discussed by the ablest men there, and the best opinion is, that even Congress cannot tie the hands of the legislatures of the States upon this subject. I am opposed to entangling ourselves with any more difficulties than those in which we are now placed. True, there are sometimes difficulties and inconveniences in electing these senators, but I think we had better "bear the ills we have than fly to those we know not of." The legislature should pass such laws upon this subject as they please, and it is at their option whether they will obey them or not. Law-makers are generally law-breakers, but one legislature cannot tie the hands of another.

Mr. PARVIN. I can easily perceive the difficulties which would arise upon this subject of the election of United States senators, if we pass any law upon this subject. I can see, however, that Congress could properly pass a law upon this subject, but as a matter of course, they could pass nothing contrary to the constitution. I think they could pass an act which will show the different States the manner in which the present Senate intends they shall elect, and they will undoubtedly pursue that course. I think that Congress can pass such an act, without infringement upon the rights of the State.

Mr. HALL. I move to lay the resolution upon the table.

The question being taken, the motion to lay on the table was agreed to.

Miscellaneous.

Mr. TRAER. I offer the following resolution:

"*Resolved*, That the committee on schedule be instructed to report an article providing for retaining in office the present legislature and State officers, until the expiration of their terms of office under the present constitution."

I desire to say, that my object in introducing this resolution is to settle the question, whether we will determine to have a general election under the new constitution, of the present State officers, and the legislature, or whether we will retain them. I think it is necessary to have that question determined. If we determine to have a general election after the adoption of the constitution, it will be necessary that we should re-district the State. My object in introducing this resolution is to settle that question definitely, so that the committee on schedule can report an apportionment, if necessary. I do not desire to discuss the question at any great length, and I only make this simple statement for the purpose of showing my object in introducing the resolution.

Mr. JOHNSTON. This is a very important resolution, and the subject to which it relates is one to which I have paid very little attention. I am in doubt in regard to some of the officers, and, indeed I have not made up my mind in regard either to the legislature or other State officers. I presume there are many members of the convention in the same position with myself. I should like a little time to consider the subject, and I therefore move to lay the resolution upon the table, for the purpose of considering it hereafter. I do not make this motion for the purpose of defeating it, but for the purpose of considering it.

The question was taken, by yeas and nays, upon the motion to lay the resolution upon the table, and it was agreed to; yeas 21, nays 13, as follows:

Yeas—The President, Messrs. Ayres, Clarke of Johnson, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Secly, Solomon, Winchester and Young.

Nays—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Day, Edwards, Ells, Emerson, Gower, Gray, Skiff, Traer, Warren and Wilson.

Mr. BUNKER. In order to give the committee an opportunity to complete their reports, I move that the convention adjourn until two o'clock P. M. on Monday.

Mr. HARRIS. I hope that motion will not prevail. Why not meet Monday morning at the usual hour?

Mr. MARVIN. Before I vote upon this question I would like to ask, whether there are not some reports ready for the action of the convention?

The PRESIDENT. There are some reports of special committees, which are not fully acted upon.

Mr. EDWARDS. I move to take from the table the report of the committee on the right of suffrage.

The PRESIDENT. The whole subject was referred to a select committee.

Mr. HARRIS. I move to amend the motion to adjourn so that, instead of 2 o'clock P. M. on Monday, we shall meet here at 10 o'clock A. M.

The question was taken upon the motion to amend, and it was not agreed to upon a division; ayes 10, noes 14.

A motion was made to adjourn until 9 o'clock A. M., on Monday, which was not agreed to.

The PRESIDENT. The question now recurs upon adjourning until Monday at 2 o'clock P. M.

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The question was taken, by yeas and nays, upon this motion, and it was not agreed to; yeas 11, nays 23, as follows:

Yeas—Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Hall, Hollingsworth, Marvin, Solomon, Wilson and Young.

Nays—The President, Messrs. Ayres, Clark of Alamakee, Day, Emerson, Gibson, Gillaspy, Gower, Gray, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Traer, Warren and Winchester.

Education and School Lands.

Mr. WINCHESTER. I would inquire if a motion was not made and carried to defer the consideration of the report of the committee on education and school lands?

The PRESIDENT. No, sir; the report was put over by general consent.

Mr. WINCHESTER. As there will be several reports made Monday morning, I think it would be advisable to take up the report of the committee on education and school lands now. If necessary, I would move a reconsideration of the vote deferring the consideration of this subject.

The PRESIDENT. It is not necessary for the gentleman to make any such motion to accomplish his object. He can move that the convention resolve itself into committee of the whole upon this subject.

Mr. WINCHESTER. I make that motion, then.

The question was taken, and the motion was agreed to.

In Committee of the Whole.

The Convention accordingly proceeded, in committee of the whole, to consider the report of the committee on education and school lands, [Mr. Parvin in the chair.]

The CHAIRMAN. The question pending before the committee when they last rose was upon the motion of the gentleman from Jefferson, [Mr. Wilson,] to substitute the minority for the majority report, and upon that question the gentleman from Scott, [Mr. Ells,] was entitled to the floor.

Mr. ELLS not claiming the floor,

Mr. SKIFF said—

It seems that members of the convention have not examined this question much, having expected to hear from the gentleman from Des Moines, [Mr. Hall,] an explanation of the majority report, and having also expected to hear from the gentleman from Scott, [Mr. Ells,] an explanation of the minority report. For my own part, I am not prepared to vote upon this question now. If we consider this matter now in committee of the whole, it will have to undergo a full consideration when it comes before the convention. I do not consider that there is anything to be gained by considering this subject in committee of the whole now, and I would prefer to have the matter laid over for the present.

Mr. CLARKE, of Johnson. I hope that this question will not be taken up now. I am in the same situation as the gentleman from Jasper, [Mr. Skiff.] I supposed, after the vote of the convention yesterday, that this subject was laid over till Monday, and I expected, before that time, to make a thorough examination of these two systems. I am now totally unprepared to vote upon this question, or to express any views in relation to either of the systems proposed by the majority and minority reports. These systems are both entirely new to the people of the State, and propose an entire change, not only in the school system of the State, but in the management of the school fund and school lands.

I agree with the gentleman from Des Moines, [Mr. Hall,] in what he said, that the subject of education was perhaps the most important subject that could come before this convention. I hope we shall not be driven into an examination of the subject, when it is evident to the minds of the convention that the gentlemen who have thought most upon the subject, who have prepared these reports and are therefore the best able to enlighten us upon this subject, are not able, through indisposition, to take an active part in the discussion at this time. For my part, I prefer the minority to the majority report, as the matter now appears to my mind. But this preference I give from a very hasty examination of the subject, and I am not certain in my own mind, whether I would not prefer something else to it. I desire to make a more extended examination of this subject than I have yet been able to do, and I presume other members would like to have the same opportunity. I move, therefore, that the committee rise, report progress, and ask leave to sit again.

The question was taken, and the motion was agreed to, upon a division, ayes 16, noes 8.

In Convention.

The PRESIDENT having resumed the chair,

The CHAIRMAN reported that the committee of the whole, to which had been referred the reports of the committee on education and school lands, had instructed him to report that they had had the same under consideration, had made some progress therein, and asked leave to sit again.

Mr. CLARK, of Alamakee. I object to the committee having leave to sit again, and upon that question I call the yeas and nays.

The question was then taken, by yeas and nays, and it was decided that the committee have leave to sit again, yeas 23, nays 10, as follows:

Yeas—Messrs. Bunker, Clarke of Johnson, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Peters, Price, Robinson, Scott, Skiff, Solomon, Warren, Wilson and Young.

Nays—The President, Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Edwards, Patterson, Seely, Traer and Winchester.

Mr. CLARKE, of Johnson. As there seems to be no business before the convention, I move that we adjourn until half-past nine o'clock on

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Monday next. I make the motion because there are several committees that want to meet and complete their reports.

The question was taken, and the motion was agreed to, upon a division, ayes 16, noes 6.

The convention accordingly adjourned till Monday morning at half-past nine o'clock.

MONDAY, February 23d, 1857.

The convention met at half-past 9 o'clock, A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of Saturday was read and approved.

Petitions—Intoxicating Drinks.

Mr. WINCHESTER. I ask leave to present the petition of J. W. Rogers, and 162 others, citizens of Fayette county, requesting that there be incorporated into the constitution substantially the following provision, in article three, section five;

"The legislature shall have power to pass laws regulating, restricting or prohibiting the manufacture or the traffic in intoxicating liquors, and to that end may confiscate all liquors manufactured or sold in violation of its acts."

I move that this petition be referred to the committee on miscellaneous business, and I hope they will give it the consideration which the importance of the subject demands. I am happy to have the opportunity of presenting from so large a number of my own constituents, a memorial so sound upon this great moral question. However impracticable it may be to carry out that principle at the present time by legal enactments, I hope the time is not far distant when it will be deemed not only practicable but expedient.

The motion to refer was agreed to.

Reports of Committees.

Mr. YOUNG asked to be excused from serving upon the committee on the schedule, and that some other member be appointed in his place.

Mr. Young was excused, and Mr. Skiff was appointed to fill the vacancy.

Mr. BUNKER from the committee on miscellaneous business, submitted the following report:

ARTICLE —.

Section 1. The jurisdiction of Justices of the Peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to any real estate may arise,) where the amount in controversy does not exceed fifty dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

Sec. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that amount; *Provided*, however, that the county of Worth, and those west of it, on the Minnesota line, may be organized without additional territory.

Sec. 3. The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly.

Sec. 4. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

Sec. 5. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term, and no longer, unless re-elected; and all persons appointed to fill vacancies in office, shall hold until the next general election only.

Sec. 6. The State University shall consist of a single institution, and be permanently located at Iowa City. The present State Capital, with such improvements and additions as may be provided for by law, shall be occupied by the State University, when not used by the State for other purposes.

Sec. 7. The General Assembly shall not locate any of the public lands, which have been, or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

On motion of Mr. SKIFF,

One hundred copies were ordered to be printed for the use of the convention.

Incorporations.

Mr. WILSON from the select committee to whom was referred the report of the standing committee upon incorporations, with the amendments made thereto, submitted a majority report upon that subject. The first section remains unchanged. In the second section, first line, the words "corporations may sue and be sued," are stricken out, and in line two, after the word "persons," all the remainder of that line and the next are stricken out. The third section remains as reported by the committee originally. The fourth section remains as it passed the convention, striking out all after the word "indirectly," in line fourth. Sections five to fifteenth inclusive are stricken out; also sections eighteen, nineteen and twenty; some changes being made in sections sixteen and seventeen. So that the report now reads as follows:

ARTICLE 8.

Section 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Sec. 2. The property of all corporations for pecuniary profit, now existing, or hereafter created shall be subject to taxation, thesame as that of individuals.

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Sec. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

Sec. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

Sec. 5. No act of the General Assembly, authorizing corporations or associations with banking powers, nor shall amendments thereto take effect, nor in any manner be in force, until the same shall have been submitted separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may provide for the establishment of a State Bank with branches, in addition to banks provided for by general law.

Sec. 7. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or erection of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

Respectfully submitted,

J. F. WILSON, Chairman.

The undersigned do not concur in the above report so far as relates to banking corporations or associations, believing that some restrictions should be imposed on the Legislature with respect to the organization of said corporations or associations.

J. F. WILSON.
DAVID BUNKER.

Mr. CLARKE, of Johnson. I move that the usual number of copies be ordered to be printed. It is the most important subject before us, and I should like to see it in print before we act upon it.

The motion was agreed to.

Right of Suffrage.

Mr. CLARKE, of Henry, from the special committee to whom was referred article second of the constitution in relation to the right of suffrage, submitted the following report:

"The special committee, to whom was referred article second of the constitution, report the same back without amendment, and would recommend the adoption of the following resolution:

"*Resolved*, That at the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," wherever it occurs in the said constitution, shall be separately submitted to the electors of this State for their adoption or rejection, in the manner following, viz:

"A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box, and those given for the adoption of the said proposition, shall have the words, "Shall the word 'white' be stricken out of the constitution wherever it occurs? Yes." And those against the proposition shall have the words, "Shall the word 'white' be stricken out of the constitution wherever it occurs? No." And if, at said election, the majority of all the ballots cast for and against the said proposition, shall have the words, "Shall the word 'white' be stricken out of the constitution wherever it occurs? Yes," then the word 'white' shall be stricken out, and shall not be any part of said constitution."

Mr. JOHNSTON. Does the gentleman mean to have the word "white" stricken out wherever it occurs in the constitution, or wherever it occurs in the article on suffrage?

Mr. CLARKE, of Henry. The gentleman will observe that it only occurs in the constitution as a qualification.

Mr. JOHNSTON. It occurs in the qualification of electors, and also of members of the General Assembly, and in relation to the militia.

Mr. CLARKE, of Henry. The resolution proposes to strike it ont everywhere, and to make our constitution, like the constitutions of some other states, without the word occurring at all, and making no distinction.

Mr. HALL, from the same committee, submitted the following minority report:

"The minority of the committee to whom was referred the article 'Right of Suffrage,' beg leave to report:

"The only question brought forward for the consideration of the committee, changing the article referred to, was the propriety of striking out the word 'white.'

"The majority of the committee have not deemed that amendment proper or expedient, but have adopted a special course of bringing the question before the people by a separate proposition and vote.

"To this mode of treating the subject there can be no great objection. It resolves itself into a mere question of propriety or expediency.

"That there are a small number of citizens of this state who are in favor of this amendment, we are free to admit. But the undersigned will be slow to believe that any considerable or controlling number of our fellow-citizens do, or will for one moment, sanction the proposition.

"The proposition to invite the negro and Indian to our state by a constitutional guarantee of equality with the white people, we feel confident cannot be sanctioned. The majority of the committee feel the force of this truth, and hence they do not insist upon the amendment as a fixed feature in the constitution. With the fullest conviction that the voice of the people is against the measure, the majority recommend that it shall be the subject of popular agitation.

"If the wish of a majority of the people of

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this state upon this subject was a question of doubt, if public sentiment was hesitating and undecided, there would be a reasonable cause for leaving the question unsettled by this convention, and returning the power to settle it back to the people, the source of all power.

"The undersigned do not believe that this is the case. They, therefore, conclude that no good can result from a separate submission of that question. Its only effect will be to keep up agitation, to furnish material and food for a morbid and forbidding sentiment, that is fraught with evil to the Indian, negro, and Anglo-American races.

"Suffrage is a delegation of political power. In our government it is more than a mere badge of equality of rights. It is a guarantee of social, political and personal equality.

"The views of the undersigned are so fully expressed in a report made by a select committee to the first constitutional convention, of this state, that they adopt that report, and re-assert the principles therein stated, as follows:

"'That all men are created equal, and are endowed by their Creator with equal unalienable rights, your committee are free to admit; that, so far as nature i concerned, those rights are as sacred to the black man as the white man, and should be so regarded. This, however, is a mere abstract proposition, and although strictly true, when applied to man in a state of nature, yet it becomes very much modified when man is considered in an artificial state in which government places him. Thus, the infant is not entitled to liberty or the pursuit of happiness, until he arrived at the age of twenty-one years. Females, by the arbitrary rules of society, are excluded and debarred from many things which males consider rights and high privileges—such as the elective franchise, holding office, &c. Now, in these cases, the female and infant are denied what we abstractedly term unalienable righs, and they submit without complaint or murmur. No one thinks of sympathising with them in their deprivations. The philanthropist has never had occasion to commiserate their fate, still it is in those respects the same as the *citizen of color*. The negro is surely no better than our wives and children, and should not excite sympathy when they desire the political rights they are deprived of.

"'The great error in the minds of our citizens who reason in favor of negro suffrage and citizenship, arises from their mingling the natural and artificial rights of man, and treating the artificial institutions of government as sacred, and as undeniable to man as the abstract rights of nature; a proposition which is untrue in point of fact, and in opposition to the experience of the whole world. Governments are strictly conventional, and although based upon the laws of nature, they are necessarily limited and circumscribed in their operation. It is made for those who are to be benefitted by it, and is not bound to unbar its doors and receive every vagrant who may take refuge in it.

"'Government is an institution or an association entered into by man, the very constitution of which changes or modifies to a greater or less extent his natural rights. Some are surrendered, others modified. The compensation for these sacrifices is found in the greater security in those rights retained, and a cheapening of the expense of protecting them. It is a means sought by man to make more available, secure, and certain, his *inalienable* rights of life, liberty, and the pursuit of happiness. Thus the citizen acquires a species of property in his government, which he has a right to enjoy without molestation, and without disturbance. In forming or maintaining a government, it is the privilege and duty of those who have or are about to associate together for that purpose, to modify and limit the rights, or wholly exclude from the association, any and every species of persons who would endanger, lessen, or in the least impair the enjoyment of these rights. We have seen that the application of this principle limits the rights of our sons, modifies the privileges of our wives and daughters, and would not be unjust if it excluded the negro altogether. It is the party to this compact that should complain, not the stranger. Even hospitality does not sanction complaint under such circumstances. True, these persons may be unfortunate, but the government is not unjust.

If your committee are correct in their views, the question presented for consideration is plainly this: Would the admission of the negro, as a citizen, tend in the least to lessen, endanger or impair the enjoyment of our governmental institutions? In other words, would the accession of a negro population produce any of these consequences? If it would, we should be unwise to admit them; if it would not, then it would be wanton and wrong to exclude them. The whole subject should be properly treated as a question of policy or contract, where self-interest is just as properly consulted as in the promotion of a commercial treaty or a private contract. It is the *white* population who are about to form a government for themselves. No negro is represented in this convention, and no one proposes to become a member of the compact. It is the white people of this territory who petition for the admission of the negro. They necessarily believe that the introduction of such a population as citizens would not interfere with the enjoyments of the white citizens, or they place this admission on the ground that the negro has the arbitrary claim, based as a natural right. The proposition would stand thus:

1st. That the negroes are a desirable, or, at least, a harmless population;

2d. That the negro has a *natural* right to be admitted as an equal citizen.

The former proposition begs; the latter demands.

Can the negro be admitted to those privileges and not impair the rights of the whites? Your committee think not. The government, then, would be unjust to admit them. The negro not being a party to the government, has no right to partake of its privileges.

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However your committee may commisserate with the degraded condition of the negroes, and feel for his fate, yet they can never consent to open the doors of our beautiful State, and invite him to settle our lands. The policy of other States would drive the whole black population of the Union upon us. The ballot-box would fall into their hands, and a train of evils would follow, that, in the opinion of your committee, would be incalculable. The rights of persons would be less secure, and private property materially impaired. The injustice to the white population would be beyond computation. There are strong reasons to induce the belief that the two races could not exist in the same government upon an equality without discord and violence, that might eventuate in insurrection, bloodshed and final extermination of one of the two races. No one can doubt that a degraded prostitution of moral feeling would ensue; a tendency to amalgamate the two races would be superinduced; a degraded and reckless population would follow; idleness, crime and misery would come in their train, and government itself fall into anarchy or despotism.

(Signed) J. C. HALL.
D. W. PRICE.

Mr. CLARKE, of Johnson. I move that the report of the minority of the committee be laid upon the table. I make that motion with a view to bring the majority report before us for consideration, when I shall move to postpone indefinitely the consideration of the resolution reported by the majority of the committee.

The question being taken, the motion was agreed to.

The resolution reported by the majority of the committee was read.

Mr. JOHNSTON. The usual course with regard to these reports is to have them printed. I will move that one hundred copies of each of these reports be ordered to be printed for the use of the convention.

Several members voting in the negative upon putting the question—

Mr. JOHNSTON demanded the yeas and nays, which were ordered.

Mr. TRAER. I would like to ask, for information, whether the remarks accompanying the report of the minority of the committee are to be printed, or only the report itself? I understood a portion of that to be merely an argument.

The PRESIDENT. The motion is to print the report, and that formed a portion of the report.

The question being taken upon ordering the report to be printed, it was agreed to; yeas 20, nays 8, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Gibson, Gillaspy, Gray, Hall, Hollingsworth, Johnston, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Solomon, Warren, Wilson and Young.

Nays—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Gower, Skiff, Traer and Winchester.

Mr. CLARKE, of Johnson, when his name was called, said:

I desire to say, in explanation of my vote, that I shall vote against printing, because I do not want to give the subject so much importance in this convention.

Bill of Rights.

Mr. CLARKE, of Henry, from the committee to which was referred the Bill of rights, submitted the following report:

"The committee to whom was referred the bill of rights, beg leave to report the same back without amendment, except section one, in which they would recommend that the word "independent" be stricken out, and the word "equal" substituted.

In regard to section four, the committee beg leave to submit separate reports. The reasons of Mr. Wilson for deeming an amendment unnecessary are submitted herewith as follows:

One object of the convention in referring section four, of the bill of rights, to a select committee, was to have the committee pass upon the expediency of so amending said section as to embody in it a clause securing to the people the right to introduce the testimony of negroes, mulattoes and Indians into the courts of this State. The committee have been unable to harmonise their views in relation to said section, and have concluded to place before the convention, in the form of reports, the different views of the members of the committee. The undersigned, therefore, beg leave to submit the following as his views of the subject referred to the committee.

After a careful examination of the subject, the undersigned can come to no other conclusion than that the object sought to be attained by the amendment proposed in the convention, is secured by the first section of the bill of rights. The section referred to declares as follows:

"All men are by nature free and equal, and have certain unalienable rights, among which are those of enjoying and *defending* life and liberty, acquiring, possessing, and *protecting* property, and pursuing and obtaining safety and happiness."

The right of "defending life and liberty," and of "protecting property," set forth in this section as natural rights, are not taken away when men associate themselves into governmental organizations. The rights remain unimpaired—the method of protecting them only being changed. In a state of nature man must depend upon his physical powers to protect his rights—under constitutional government he depends upon the laws as administered by the courts of justice.

The right of protecting life, liberty and property, being guaranteed by the constitution to every man, it follows as a consequence, that every one is entitled to exercise all these rights necessary to the full enjoyment of the right thus guaranteed. This point being determined, it follows that the citizen thus having the right

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guaranteed to him of protecting his life, liberty and property, by application to the courts of justice, he also has the right to introduce testimony; for without this right, the protection held out to him by the constitution, would be no better than heartless mockery—it would be but to invite him into the temple of Justice, while the doors are bolted and barred against him. Testimony is as essential to the protection of life, liberty and property, in courts of justice, as air is to the enjoyment of animal life; and every interference with the right is an act of usurpation not warranted by the constitution. The present constitution of Iowa contains no clause conflicting with the full enjoyment of this right. The amended constitution, which this body will submit to the people, will make no change in the present constitution in this respect. It follows, therefore, that the General Assembly have no power under the present constitution, nor will they have under the amended constitution, to infringe upon this right as recognized and guaranteed by the first section of the bill of rights. In this view of the case, it matters not what the color of the witness may be, if his testimony be necessary for the protection of the life, liberty, or property of a party to a judicial proceeding, the party interested has the right to introduce him, and any law which seeks to deprive the party of this right, infringes upon the constitutional rights of the people, and is, therefore, void.

The undersigned, believing that the foregoing views of the constitution are correct, can see no necessity for re-declaring the provisions of the first section of the bill of rights in any other section, and would, therefore, recommend the adoption of the fourth section without amendment. JAMES F. WILSON.

I fully concur with his reasoning, so far as the same goes to show that such amendment as is proposed *ought not* to be necessary. But, unfortunately, legislatures and courts, and those clothed with a little brief authority, are not always governed by correct principles. If such were the case, we might dispense with the whole bill of rights. In fact the same process of reasoning would strike out nearly every section after the first. In regard to the "necessity" of the proposed amendment, "stubborn facts" would seem to establish it beyond controversy. As the laws now stand, all classes, sects, and parties, stand alike, individuals of all kinds being liable to disabilities only on account of their own bad character, misfortunes, or offences. I do not, therefore, recommend this amendment on account of, or for the benefit of, any one, two, or more classes; but for *all*, to forever protect ALL.

The Legislature of our own state has once blackened our statute book with a most infamous law, depriving one whole class and race of men from being witnesses in courts of law, against the spirit and letter of this same *first section*, and that, too, under our old Constitution.

That law remained in full force, a disgrace and reproach to our state, *yet sustained in all our courts*, until it was repealed at the last session of our legislature!

What warrrant have we, therefore, that the next, or some subsequent legislature, may not re-enact the same laws; or go further, and embrace other classes, sects, and parties of men? It is, in fact, publicly proclaimed by one of the great parties that, if reinstated in power, they will re-enact them; and gentlemen in this convention have expressed their willingness to go further, and compel every member of certain classes to leave the State. With nearly the same declaration of rights in their constitutions as set forth in our famous *first section*, other States have also passed laws depriving whole classes and sects of individuals of rights to which all other citizens were entitled, and especially of this right of giving, and of having given, testimony in courts of justice. With all these stubborn facts in view, can it be possible that any one who wishes to secure to every individual the rights set forth in the first section, can have any objection to the amendment proposed to the fourth section? Nay, who can deny the *absolute necessity* of incorporating such a provision in our constitution to prevent party madness, fanatical bigotry, narrow-minded jealousy, and low-minded prejudice from again outraging the most obvious principles of human rights and ordinary justice, and the common decencies of manhood, by their "class legislation," and partizan enactments?

In order to deprive the unfair and the ungenerous of all grounds for the charge that such amendment is sought for the especial benefit of any one class, I would recommend its adoption in the following form:

"No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion.

"And any person, being a suitor in any court, shall have the right of taking and using the testimony of any other person, not being a co-party, nor his own wife, nor the wife of a co-party, and not being under legal disability on account of conviction for crime."

Section ten a majority of the committee report back, as it came to them without any additional amendment.

R. L. B. CLARKE, Chairman.

Mr. CLARKE, of Henry. The opinions of Mr. Harris, who is a member of the committee, have not been handed in.

Mr. GILLASPY. Mr. Harris, a member of this special committee upon the bill of rights, is confined to his room by indisposition, and has requested me to present the report which he has drawn up, as the minority of the committee, to the convention.

The minority report was read as follows:

"The undersigned, as one of the special committee to whom was referred the bill of rights,

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with instructions to consider sections one, four and ten, and correct if necessary the phraseology of section eighteen, as amended, begs leave to make the following report, viz:

The amendment pending to section one, cannot in striking out "independent" and inserting "equal," secure to any one particularly rights they would not equally enjoy, if section one be permitted to remain as now fixed in the present constitution.

The "sovereignty of the people being with us a well conceded axiom," it follows that with our theory, (which none here deny) there can be no power greater than the sovereign power of the people, and if superior to all other power, being the source of all power, they must as to government be independent. Where freemen form social and political compacts, they are each equal to the other in natural and political rights, and independent of all other political and social relations, and the peculiar phraseology of our bill of rights that "All men are by nature free and independent" when definitions are given of the substrator that underlies all our institutions of government, occurring more frequently than any other form of expression in the constitutions of the several States, it is no more than fair to presume the multitude of statesmen and scholars who have adopted that word as the most expressive of the true relation of men civilized and associated under a form of government whose fountain source is themselves, have not used the word independent so freely without some proper understanding of its true meaning and correct use. I can see no reason for striking it out.

In the discussion that took place here on the amendment offered to section four, it was conceded that the main object of the amendment was to place mulattoes and negroes, and perhaps Indians too, equal to any and all other class of persons as to the right of giving testimony in courts of justice, a right all admit can only be denied them by affirmative prohibitory legislation, under the present constitution. No especial provisions being inserted to operate for the immediate benefit of any other praticular class of persons in the State, with the record of the convention pointing to the fact that certain things were done in order to more certainly secure the rights of such persons of color, in matters of testimony—could in the opinion of the undersigned but be construed as pointing to such persons as those, to protect the rights of whom, the constitution soon to be submitted to the electors of the State was especially framed, and of course according to them a higher standard for integrity and intelligence than is allowed to those less deeply colored, a distinction it is hoped this convention is not prepared to make.

In the amendment made to section ten, the words, "and in cases involving the liberty of an individual," &c., as contradistinguished from criminal law, and disconnected from any proceedings in the enforcement of the criminal law of the State, being such as are not found in the constitution of any other State in the Union, should, before being finally engrafted in our own constitution, be carefully considered. And while it is right and proper to cultivate those humane promptings of the heart, that yearn to alleviate in any condition, the suffering of a fellow-man, care should be taken that we discriminate in the protection we would afford between the protection of liberty, secured by free written constitutions, created and supported by those who are to be governed by them, and liberty as defined by the anarchical and unbridled mob. We have sworn to support the constitution of the United States, and unless we would prove recreant to the oaths we have taken, and teach treason to its precepts, we must secure, by the provisions of our constitution, on the part of our courts and citizens, a due observance of the faith pledged to the citizens and laws of other States, we imposed by becoming a party to the compact of the Union, and assuming the responsibility of a faithful discharge of the duties imposed by that compact. Unless thus prepared, it would seem more proper to cancel the bond and claim an exemption in future from the duties of the compact.

It will be observed by referrence to the second paragraph of section two, article four, of the constitution of the United States, that any one committing a crime in any other State, cannot, if arrested in Iowa, demand a speedy and impartial trial by jury in Iowa, but must, on demand, be delivered up to the authorities of the State where the offense was committed, to be tried by the courts of such State. The reason is obvious. There is no offense against the laws of this State. The offender must answer to the law violated. There is no offense against the law of any other State. The crime being local, the right to jury trial must be equally local and confined. The third paragraph of said section provides that "no person held to service or labor," &c., "shall be discharged, but be delivered up on demand of any one to whom such service or labor is due." If any person can point to the reason why one of those provisions is more binding than the other, they will make a distinction the undersigned has never been able to observe.

In the first instance, while the man is presumed to be innocent, he is, on demand, without proof, handed over to the iron clasps and stern demands of a supposed sanguinary criminal code of a foreign State, to undergo an inquisitorial investigation that is to consign him, perhaps to a death of infamy, and his family to a life of shame. And yet there is no proof. Why submit to see those manacles placed so rudely on his palsied trembling limbs? For no other reason than that a State we account to be sovereign and independent has made the demand, and our faith with her requires that we shall not come between her offended majesty and those offending, but must trust the accused to her justice and amenity. Do these reasons apply with

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equal force to those escaping from labor, &c.? Why not? That which is the legal due of the citizen of one State, by the statutes thereof, may otherwise be cancelled by the laws of another; and it would seem clear that the courts of a State cannot enforce rights created by the laws of another State, which are in violation of its own laws. But they may hand the parties over to have their rights determined by the courts of the State where the rights are created and obligations incurred.

The undersigned can, (whether so intended or not) only look on the amendment as it stands as a full and complete nullification of any laws Congress might pass in aid of those provisions of the constitution of the United States before referred to, and a solemn protest against complying with the demands that may be made for persons who may have escaped from other States in either case.

The undersigned would for these reasons recommend that sections one, four and ten, of the bill of rights in the present constitution be adopted without any amendment or change; and that section eighteen as amended be adopted. All of which is respectfully submitted.

(Signed) A. HARRIS."

Mr. JOHNSTON and Mr. GILLASPY moved that one hundred copies of the reports be printed for the use of the convention.

The PRESIDENT. The Chair will say that the report embracing that article was referred to a select committee, with instructions to confine their attention to sections one, four, ten and eighteen. The majority of the committee report back the article, agreeing upon three of these sections. That is the report. That report was accompanied by the Chairman's remarks which he read here. Differing with these remarks, another gentleman presents his views. Does the gentleman from Wapello [Mr. Gillaspy] desire to have these latter remarks printed, or both?

Mr. GILLASPY. I supposed that these papers were intended as reports, and not merely arguments or speeches.

The PRESIDENT. They are arguments.

Mr. GILLASPY. Well, sir, if there is a disposition not to have them printed, I shall move a call of the convention, in order that Mr. Harris can be brought in here to answer for himself. I suppose it would be proper to print the whole. I understand that a report presented this morning, as much of an argument and as much like a speech as these, upon the right of suffrage, has been ordered to be printed by the action of the convention this morning. Mr. Harris was too unwell to feel disposed to remain here; but I know he desires to have this paper printed, and I presume that the other members of the committee wish this report printed. If there is a disposition not to print, I shall move a call of the convention, in order that Mr, Harris may be brought in here to answer for himself.

Mr. WINCHESTER. I will move to amend, by adding, "provided that the printer has material enough on hand without sending to the foundry for more stock."

Mr. GILLASPY. We have a printer at Davenport, and if this cannot be printed here we can send it there.

Mr. CLARKE, of Johnson. Without intending any disrespect to any of these gentlemen, I shall vote upon this proposition as upon the other against the printing. The gentleman from Wapello [Mr. Gillaspy] has announced repeatedly that the Republican party are responsible for what is done here, and the papers of the party to which that gentleman belongs will trumpet it through the country, that the Republican party are spending their time in the discussion of this nigger question. The attempt is now being made to misrepresent upon that ground, the position of at least a majority of the Republicans upon this floor. And if we print this report, gentlemen will go home and shake these reports in their hands and say, see how the Republican party are spending their time and the money of the people in printing their reports on niggerism. I am not willing to give them that opportunity. Hence I voted against printing the report this morning, and I shall vote against printing these.

Mr. GILLASPY. I think that the gentleman from Johnson [Mr. Clarke] will be found to have been the first man upon this floor to say that the Republican party would be responsible for the action of this convention. I understand that since that time he has repudiated the Republican party. I do not know now that he is the champion of the Republican party. So far as I am concerned, I have no particular desire to see these papers printed, although I shall vote for it. My agency has expired, so far as presenting this report is concerned, and as there seems to be a disposition to object to the printing, I move a call of the convention, that Mr. Harris may be brought in to answer for himself.

The motion for a call of the convention was agreed to.

Upon calling the roll, the following were the absentees:

Messrs. Cotton, Day, Ells, Harris, Marvin, Parvin and Todhunter.

On motion of Mr. PATTERSON, Mr. Day was excused.

On motion of Mr. GOWER, Mr. Parvin was excused.

On motion of Mr. WILSON, Messrs. Ells and Todhunter were excused.

On motion of Mr. GRAY, Mr. Marvin was excused.

Mr. CLARKE, of Johnson, moved that Mr. Harris be excused [Laughter].

Mr. GILLASPY. I know that Mr. Harris desires to come.

Mr. TRAER. I will inquire if he is any bet-

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ter than he was a few minutes ago. I understood him to be confined to his room.

Mr. GILLASPY. No sir. He would desire to be here.

The Sergeant-at-Arms was sent for Mr. Harris, all the others having been excused.

Mr. TRAER moved that further proceedings under the call be dispensed with.

The PRESIDENT ruled the motion not to be in order, a sufficient time not having elapsed to answer the object of the call.

Mr. HARRIS appeared and took his seat.

On motion of Mr. BUNKER,

Further proceedings under the call were dispensed with.

The question was stated to be upon the motion of Mr. GILLASPY, to print one hundred copies of the reports of the special committee on the bill of rights.

Mr. HARRIS. I am very sorry to have put the Convention to any trouble in this matter. I understand that there is some misapprehension in regard to this matter. I did not understand, until this morning, what was to be the character of the report upon the other side, whether one or two reports. But I learned this morning that there was to be but one report, though the majority did not concur in all respects. I found, upon consultation, that I disagreed with the majority of the committee in regard to sections one, four and ten—that is, I did not disagree with the gentleman from Jefferson, [Mr. Wilson,] in regard to the proper report to be made upon section four, but I disagreed with him as to the reasons why such a report should be made.

I was very unwell this morning, and am so yet, and do not feel able to be in attendance upon the sittngs of this body; otherwise, I would not have put the Convention to the trouble of sending for me. As to the printing of these reports, I have no objections to its being done.

Mr. BUNKER. I voted this morning against printing the report of the special committee on the right of suffrage, for the reason that this Convention has employed a reporter, and made other provision for the regular publication of the proceedings of this body. And hence the publishing of the report of a committee is of no practical utility, other than it may be laid before members here, so that they may know how to act upon it. Whenever a committee makes a report that it is necessary members should have before them, in order that they may know how to act upon it, such a report I think should be printed. But these reports, this morning, are mere arguments as to why the various members of the committee came to certain conclusions. And as gentlemen will have all their arguments reported and published in the debates of this body, I do not see the necessity of their being published separately. For that reason I voted against the printing of the other report, and shall vote against the printing of this one, not out of any disrespect to the members of the committee or their arguments.

Mr. WILSON. I have submitted my views in this report in relation to the fourth section of the bill of rights; but as I do not think the Convention will be a great deal the wiser by having the views of the different members of this committee printed and laid before them, I shall vote against the printing. And in order to get rid of all this printing, I shall vote to reconsider the vote given by the Convention a short time since, ordering the printing of the report of the select committee on the right of suffrage. I do not think my views, as expressed in this report, will enlighten the Convention a great deal, and I shall vote against their being printed, being satisfied that they will go into the regular report of the proceedings and debates of this Convention.

Mr. YOUNG. I voted to print the report of the select committee on the right of suffrage. but I did so with the intention to vote for a reconsideration at the proper time. I considered the report as merely an argument, and did not believe that it would be of any benefit whatever to us to have it printed; and I shall move a reconsideration of that vote when the proper time arrives.

And I shall vote against the printing of the different arguments submitted by the different gentlemen upon the select committee on the bill of rights. And if the motion to print, now before us, does not prevail, then I shall move a reconsideration of the vote ordering the printing of the former reports.

Mr. CLARKE, of Henry. I voted for the printing of the reports that were presented this morning from the select committee on the right of suffrage. And one reason why I did so was, that I supposed I saw a disposition manifested here, upon the part of some, to make political capital out of this question. And I was anxious that all gentlemen here, who desired to make, upon the floor of this convention, any political capital out of this or any other question, should have every chance to do so. I wanted to give them the opportunity to do so; I would let them alone; I would let them take all they wanted, without any restriction at all. If you do that, you will soon find that they will give up that game. It is only when you are afraid, when you betray any feeling of timidity as to what the people somewhere will say about this terrible negro, who has got into the wood pile here, that you encourage men to endeavor to make political capital of this matter.

Now there is no political capital to be made out of this subject. And men, who get up here, and try to make political capital of this thing, would do well to examine into this matter, and see how to use the capital bye and bye they may succeed in making here. No one need be afraid of anything that comes before him, if he acts with a good conscience, and with a determination to do that which is right. If he will do that he may rest assured of the future;

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if he will only not look back but ahead, when his record is completed, it will be all right.

In regard to this motion to print this report, I am perfectly willing it should be done. I will vote for it, if the motion comes from the other side of the house. If they can use this report in any way, I want them to have the full benefit of it. I am so conscious that the more this matter is talked about, and noised around, the more will the truth prevail, that I am perfectly willing the other side should have as many copies of these reports printed and circulated as they may see fit to order. If they will only circulate them, that is all I ask.

I was rather surprised with the report of the minority of the select committee on the right of suffrage. I certainly understand the gentlemen [Messrs. Hall and Price,] who signed that report, as agreeing with the majority that this matter should be submitted to the people. By reference to the resolution, reported from the committee now on file here, it will be found that erasures were made in it, and that was done to satisfy one of those gentlemen, [Mr. Hall,] that he might consent to have it brought in here. Knowing that, I was rather surprised when this minority report was brought in here.

If the convention refuses to print the report now before us, I will vote to reconsider the vote ordering the printing of the other report, that all may fare alike.

Mr. JOHNSTON. I cannot understand why there is any hesitation in regard to printing these reports. We have never refused to print the reports of committees when they have heretofore been presented to this convention. Is there anything in this particular subject before the convention, to make members any way timid to go before people? There is nothing unusual in the character of these reports. Here is the report of the committee on education which was printed without a single word of opposition, and the minority report has gone into an argument against the majority report. Look at the reports made by committees in both houses of congress. They contain arguments for the purpose of informing their respective houses upon the subjects in regard to which they treat. That is the object of a report; to examine into and state the reasons for or against a given proposition.

Now I desire to vote for the printing of these reports, because I wish to have the arguments of the gentleman from Henry [Mr. Clarke,] laid upon my table, for I have forgotten now what they were. So it is with regard to the arguments of the gentleman from Appanoose, [Mr. Harris.] Now I see no reason for making a difference in the treatment of these reports from what was bestowed upon other reports before this convention.

There is some little difference in the subject itself. Now I look upon this subject introduced here this morning, as the most important subject that can come before this convention. There is a new era to be inaugurated. There is an attempt made upon the part of some gentlemen to introduce into the political arena another race of men, a race to which, thank God, I do not belong. Now I will state here, once for all, that my position is in favor of the white race, and of their keeping the exclusive control of this government—I want it understood—the exclusive control of this government. And I will vote against every proposition that looks to the introduction of any other race into the political action of this country.

Mr. EDWARDS. I do not see any necessity of printing these reports, for the reason that the standing committee upon the right of suffrage, of which I had the honor to be the chairman, was the first standing committee that made a report to this convention. That committee unanimously agreed to recommend the article on the right of suffrage in the present constitution without amendment. Their report was not printed, and was the only report of a standing committee of this convention that was laid upon the table without being ordered to be printed.

Subsequently the gentleman from Henry, [Mr. Clarke,] submitted the motion to have that report, as also the report of the committee on the bill of rights, referred to select committees. Let us look at our present position. We have passed a resolution to adjourn *sine die* on or before the fourth of next month. Now those very gentlemen who are trying to have these reports printed have made more buncombe speeches, trying to throw upon others the responsibility of endeavoring to prolong the sessions of this convention, than any others here. Now right upon the eve of a final adjournment of this convention, when every man is anxious to get through and go home, gentlemen get up here and ask to have these reports printed.

What do these reports consist of? The gentleman from Henry, [Mr. Clarke,] has merely submitted a resolution, a proposition in the form of a resolution, for the people to vote upon when they vote upon this constitution. In opposition to that is a long argumentative speech from the minority of that committee, which has already been printed in the form of a report to a former convention. Now I ask what light can this convention expect to derive from having all these various speeches, in the form of reports, printed and laid before us? None at all. If we wish to act upon this subject, let us take up the resolution which is directly in point, discuss it, and dispose of it. If we order these reports to be printed, it will be three or four days before we get them, and then gentlemen will want three or four days more to examine and reflect upon them. Thus the printing of these reports would have a tendency to prolong the sessions of this convention from a week to ten days longer than they would otherwise be.

I shall call for the yeas and nays upon this motion to print, so that the responsibility may fall where it belongs.

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Mr. JOHNSTON. I will second the call for the yeas and nays.

The yeas and nays were accordingly ordered.

Mr. PALMER. I think, as the gentleman from Lee, [Mr. Johnston,] has observed, that this is perhaps about the most important question—except it may be, the banking question—that can come before this convention. And I believe the people feel more interest in this question at this time than in any other, except the one I have alluded to. They desire to know what is to be the action of this convention upon this subject of negro equality. I have been asked several times whether there would be any change in the constitution in regard to the word "white," wherever it occurs. And I have invariably replied that I supposed there would be no change. I thought, that although a few members might be in favor of some change, yet the majority would be in favor of leaving it as it is in that respect.

It is with a view to let the people know what particular members of the convention are doing upon this subject, that I shall vote for the printing of these reports. It has been said here that members of this convention have been misrepresented by newspaper writers, in regard to their position upon this question. If that is so, I think the very way to disabuse ourselves of these misrepresentations is to let the record go forth to the world, and if the record misrepresents us, let us correct that; but it certainly can misrepresent no one.

The question being then taken, by yeas and nays, upon the motion to print, it was not agreed to; yeas 15, nays 15, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson and Solomon.

Nays—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Gower, Gray, Hollingsworth, Scott, Seely, Skiff, Traer, Warren, Wilson, Winchester and Young.

Printing of the Report on the Right of Suffrage.

Mr. YOUNG moved to re-consider the vote whereby the majority and minority reports of the select committee on the right of suffrage were ordered to be printed for the use of the Convention.

Upon this motion—

Mr. JOHNSTON called for the yeas and nays, and they were ordered.

Mr. SOLOMON. I hope this motion will not prevail, and I will suggest one reason why it should not. I apprehend that the rejection of the motion to print which has just been made, was because the motion embraced not only the reports but the accompanying remarks. I do not understand that any remarks were ordered to be printed with the report in relation to which we are now called upon to vote. That report, I understand, was an entierty. Now I do not see the necessity of inaugurating at this late hour, this principle of not printing our reports. It is usual in all deliberative bodies to print all the reports made to them, both that part which may be considered as merely argumentative, and the other portions also.

Committees are constituted, and these different subjects referred to them, with the view that they may give more attention to them than can be given by the whole body. And it is to be expected, and nothing but right, that their views should be spread upon the record, and printed for the use of the convention, for whose benefit and enlightenment they are acting. And it is but due to this committee that we should receive their views, and place them in such a situation that we can read and understand them. It is true that these reports have been read at the Secretary's table this morning. But they are somewhat lengthy and argumentative, and I feel the need myself of some further and better opportunity of examining them, so that I may understand them. Therefore it is that I desire to have them printed, as we have ordered all other of our reports to be printed.

Mr. WILSON. The gentleman from Mills, [Mr. Solomon,] is certainly mistaken in regard to the report of the committee on the right of suffrage being an entierty, and containing no argument. The minority report included a long argument of the gentleman from Des Moines, [Mr. Hall,] as a member of that committee.

Mr. SOLOMON. I did not draw any distinction between the report, and the argument contained in the report. I drew a distinction between printing a report, and the remarks appended to it, as I believe was the case upon the bill of rights.

Mr. WILSON. I can see no difference between the report submitted by the special committee on the right of suffrage, and that of the special committee on the bill of rights, for there were reasons given in the body of each report for submitting certain propositions, and, as a matter of course, those remarks constituted a part of the report. And if we order the reports to be printed we order the printing of the remarks as part and parcel of the reports.

I hope this printing will not be ordered. We have already voted down the proposition to print the report of the special committee on the bill of rights, and I hope we will reconsider the vote ordering the other report to be printed, and dispose of it in the same manner that we disposed of the other report. We have before us in a printed form all the propositions contained in those two reports, except the proposition to submit a certain question to the people, and that resolution we can act upon without having it printed.

Mr. SKIFF. I shall vote in favor of the motion to reconsider, and against the printing of these reports, for this reason: there is only one point in the report of the select committee on the right of suffrage, only one idea, that of striking the word "white" out of the constitu-

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tion wherever it occurs. And every delegate in this convention knows the effect of that proposition perfectly well. It is not like the report of the committee on incorporations, or the report of the committee on education and school lands, and other reports where all the different parts of a regular system, organized and completed, are laid down. There is but the one idea in this report, and every delegate is just as well prepared to vote upon that resolution now, as if it should be laid upon his desk in a printed form. And farther than that; when the matter comes up for our action upon it, I am myself, and I suppose every other delegate here is, just as well prepared to vote upon it without a word being said, as I would be after a long discussion. I do not want to choke off any delegate who has eloquent speeches to make, but I am satisfied that not a mind will be changed by anything that can be said or done here.

Mr. HALL. I do not consider it a matter of much consequence whether these reports are printed for the use of members or not. I would not have arisen to have said one word upon this subject, but for some remarks of the gentleman from Henry [Mr. Clarke]. That gentleman submitted the report of the select committee on the right of suffrage to me as a member of that committee, and I suggested some modifications to him. But I thought it was distinctly understood that I did not approve of the proposition in any form. But inasmuch as it was to be reported, I was desirous to have it prepared in such a shape that my judgment would approve of it, in case I should be in favor of it. I did not anticipate that, after what I had said in this convention, and after my known opinions upon this subject, the gentleman would leave me with the impression that I was in favor of that report, or would vote for it when it came up before the convention. I regret that the gentleman should have so misunderstood my position upon this subject.

The subject was deemed of sufficient importance by the convention, after it had been gone over by a standing committee and discussed here, incidentally at least, to a very considerable extent, to have it referred to a select committee. The people of this State had the right to presume that we considered this subject as clothed with an importance that did not pertain to other subjects in our constitution. But few of them have gone through the forms this has, having been acted upon by a standing committee, and then by a select committee. When it was referred to that select committee, it was as well known to this convention then as now, that this committee, as it was composed, would have diversity of opinion. The very moment the committee was announced, the convention knew they could not agree upon the subject, from the discussions which had previously taken place. They knew there would be a majority and a minority report. I believe it was the duty of that committee, representing, as it did, both sides upon the question, to make these reports, and I think it was their duty to give their reasons in their reports why they refused to agree with each other. I do not think it was disrespectful or improper for the minority to do so, but that it was their duty to do so. They have done so, and I hope, as far as I have any connection with that committee, that they have done so in a respectful manner.

That report is presented here, and a proposition is offered to print it, which is carried. Now a motion is made to reconsider the vote by which it was ordered to be printed. One gentleman says it is increasing the expense of the convention. Now I think that the printing of reports made this morning would not cost as much as will the efforts to prevent their being printed. I think that we have been acting penny-wise and pound-foolish in this matter, by occupying so much time, and increasing our debates.

Other gentlemen object to the printing, because they say there is an effort to make political capital out of this matter. I suppose they refer to the minority here. The only object or effect which the printing of these reports can have of the tendency to make political capital, is by reaching the ears of the people sooner. If a hundred copies of these reports are printed, they will be distributed among the different papers, and the views of the minority and majority will in that way reach the ears of the people. Now if gentlemen are anxious to keep their views from the people, for fear of the political capital that would be made if they were not kept back, then they are right in voting against the printing of these reports.

I do not believe the question of the expense is any justification at all for refusing to print these reports, and distributing them throughout the State. It will cost but a mere trifle to have that done, and without feeling very tenacious about the matter, I shall vote in favor of the printing, because it is the usual and common course. This is the first time during the sitting of this convention that we have refused to print a report, when the authors of it asked to have it printed, and a large number of gentlemen here desired it.

Besides, I do not think it is exactly courteous to refuse the motion to print. If the minority here—taking party as the dividing line—desire to have the reports of the majority and minority printed, it strikes me that there is something of courtesy due to that minority. We have said here that we desire to have these reports printed, that they may be sent to the country immediately, sooner than they could be sent if they are only published in our debates. That is the reason I want to have these reports printed. And it does seem to me that the majority will be uncourteous and unkind towards the minority, if they refuse to let this matter go to the country, in which the minority feel as strong an interest, with as strong faith in the justice of the side they have espoused here as the majority possibly can.

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Mr. GILLASPY. I voted in favor of printing these reports, and I did so from an honest motive. I belong to that class of persons in this State who cannot be considered as political capital manufacturers. I have no political capital to make, and did not come here for any such purpose.

Now I consider it very unfair on the part of the majority who control all these committees, to come in here and make just such reports as they choose, and then refuse the minority the benefit of having their reports printed. Now my only desire in seeking to have these reports printed, is in order that I may have an opportunity to consider and examine them carefully. I occupy the same ground now that I did at first upon the bill of rights. Unless there should be some light thrown upon the subject, which I have not yet been able to discern, I shall vote to retain that bill of rights as it is now. But there may be more light thrown upon this subject by the majority report.

This convention thought proper to refer certain portions of the bill of rights to a special committee. They must have had some idea, some expectation that that special committee would report to this convention something new, and I do not think I would be fairly representing my constituents unless I should vote to have this new report laid upon my table in such a form that I may examine it readily and conveniently in order that I may know how to act properly upon this subject.

I was rather astonished at the remarks of the gentleman from Lucas, [Mr Edwards,] this morning. Last week, when a resolution was offered requiring all the special committees to make their reports by this morning, I thought I saw a disposition upon the part of the majority of this Convention to oppose that motion. We had several votes upon the matter, and, to my mind, every vote favored delay upon the part of the Convention. Now I do not desire any delay in this matter. I do not seek to delay the proceedings of this Convention by urging the printing of these reports. I want them printed and laid upon my table in order that we may have an opportunity to examine and understand them. I have heard these reports read, but I do not now recollect the first line of them. I hope the majority will not undertake to deprive the minority of the right to have their reports printed and laid upon our tables.

I can see no political capital in this thing. It is a matter that will go upon the record anyhow, and the people of the State will get hold of it. But I desire it here now in order that I may be able to vote so as to represent my constituents properly.

Mr. EDWARDS. I will say, in reply to the gentleman from Wapello, [Mr. Gillaspy,] that when the resolution was offered the other day, requiring all our committees to report by to-day, I gave it my most emphatic support.

Mr. GILLASPY. I refer to the course of the majority upon that resolution.

Mr. EDWARDS. It was adopted, and a majority of the votes must have been given in favor of it; and I advocated no course but that which I thought would facilitate the business of the Convention.

In reply to the remarks of the gentleman from Des Moines, [Mr. Hall,] I will say that when I spoke a few minutes since, I did not take into consideration at all the expense of printing this report. I did not base my argument upon any such ground as that. I opposed the printing upon the ground that it would delay the business and prolong the session of the Convention, and that if we agreed to what the gentleman asked from us, we would have to rescind the resolution which we adopted upon his own motion—to adjourn finally on the fourth of March next—and extend the session of this Convention some four or five days, perhaps for a longer period. And no gentleman upon this floor has declaimed louder and longer, especially during the first part of our session here, than the gentleman from Des Moines, [Mr. Hall,] about the people not expecting us to sit here more than two or three weeks, and the enormous expense we would be entailing upon the people if we prolonged the session of this Convention. And when the gentleman speaks of my being penny-wise and pound-foolish in this matter, all I have to say is, that I think he himself is acting upon the principle of stopping up the spigot and letting it run from the bung-hole.

Now if those gentlemen who have made the majority and minority reports will say that they are the exponents of the republican and democratic parties here, I have no objection to having their reports printed, in order that the people of the State may square their conduct accordingly.

But there is a little respect, I think, due to our standing, as well as to our special committees. The gentleman from Henry [Mr. Clarke] has called for special committees upon the reports of several standing committees, because they did not happen to meet his peculiar views. I did not oppose the appointment of these special committees, because I was willing to give him the largest latitude. And I did this in regard to a report that had been made here, in which the standing committee unanimously concurred. And those very gentlemen who have been most anxious for special committees, when they themselves have been upon standing committees that made unanimous reports, have not been slow to tell us that the very fact that those reports were unanimously concurred in, by those standing committees, entitled them to more weight and consideration from the convention.

Now, unless these gentlemen will get up here and say to the whole convention, that they stand here as the exponents of the two parties in this convention, I think that the reports of the standing committees should be entitled to more grave consideration than the reports of special com-

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mittees, which are made to represent more particularly their own peculiar views.

Now, I do not stand here as the exponent of the views of any man, or any set of men. But by the appointment of the presiding officer of this convention, I was placed, in conjunction with four other members of this convention, upon a standing committee, without the views of any of us being known concerning the particular subject committed to our charge. We reported unanimously in favor of adopting the article on the right of suffrage, as it stands in our present constitution. Now I ask, as a matter of justice, if the reports of the majority and minority of this select committee are to go forth to the world with their *ex parte*, if not garbled, statements upon this subject, that the report of the standing committee upon the same subject shall accompany them. That is what I ask, and that I contend is nothing but fair and just.

Mr. CLARKE, of Johnson. If I believed there was any anxiety in the minds of the people of this State, or any portion of them, in regard to this subject, if I believed they were waiting in dread suspense, to hear from this convention in regard to it, I should be in favor of relieving their anxiety and suspense by publishing the report presented by the gentleman from Des Moines [Mr. Hall]. But I do not believe any such thing. I do not believe that the great mass of the people of this State anticipate that, by our action here, the colored population of this state will be admitted to all the rights of citizenship, and that all the dread evils, and deleterious consequences will be inflicted upon the people of this State, as the gentleman from Des Moines has so glowing set forth in his elaborate report upon this subject. And, not believing that there is any such fear and dread in the public mind, I am opposed to the printing of that report.

I am opposed to the printing of this report for another reason. Gentlemen have announced here that, if it is published, they will send it to all their party papers, and if it is sent to them, it will be published, and they will say to the people of the State—see here, the republicans are going to upturn the very foundations of our government, and give negroes the right to vote. In order to stem the torrent of black republicanism, the gentleman from Des Moines has prepared the elaborate report which he wishes to furnish to the papers of his party for publication. And those papers, in publishing that report, will conceal the fact, which I think is true, at least at this time, that not five members of this convention are with the gentleman from Henry, [Mr. Clarke,] in favor of the proposition he has submitted in his report.

As I remarked when the subject was up before, an attempt will be made to cast odium upon the republican party. Those papers will publish the report of the gentleman from Henry, and will say—do you see, the leader of the republican party (as the gentleman from Wapello [Mr. Gillaspy,] styles the gentleman from Henry.) has made a report in favor of allowing negroes the right to vote. And thus the other members of the republican party, who do not sanction such a thing, are made to share the odium of it. I am not willing to have myself placed in such a position. If it would be stated in these papers that in this convention, not the republican party, but only the gentleman from Henry, and a few other members, are in favor of this proposition, I would not oppose this matter of printing. But that will not be done.

And besides that, the very thing I sought to obviate this morning by opposing this printing, has already taken place, and we have had a discussion upon this subject, and that will be used against the republican party, by the partizan papers upon the other side. This printing will not afford the people any more light upon this subject, but will only enable the papers of one party to conceal the true facts of the case as regards the other party.

Mr. WINCHESTER called for the previous question, which was seconded.

The question was upon ordering the main question to be put.

Mr. CLARKE, of Henry. I hope the gentleman from Hardin [Mr. Winchester,] will withdraw his call for the previous question, until I can reply to some allusions that have been made to me in regard to this matter.

Mr. WINCHESTER. I think we have had discussion enough upon this subject, and it is time it was brought to a close.

The question was then taken upon ordering the main question to be put, and it was not agreed to.

Mr. CLARKE, of Henry. There is a game very frequently played in this convention, and I am very much obliged to gentlemen for lending their aid to others to carry out that game. I should not have spoken again, in regard to this question, had it not been for the remarks made by the gentleman from Des Moines [Mr. Hall,] in connection with the remarks of the gentleman from Lucas, [Mr. Edwards.] The gentleman from Lucas referred to "the gentleman from Henry," as though he had been a very troublesome person here, as though he had not regarded the rights and privileges and dignity of the standing committees. This "gentleman from Henry," it seems, has not agreed to all the reports of these standing committees, and it is said he has come in here, with an audacity astonishing and surprising, and has moved to refer the reports of certain standing committees, or certain portions of those reports, to special committees. Now if the gentleman will point out where "the gentleman from Henry" has made any such motion, except in one instance, I shall be very much obliged to him. I made one motion of that kind, and I did so at the earnest request of a gentleman upon the other side, who came to me, and with a liberality which I in vain looked for from those who ought to stand by me, shoulder to shoulder, fighting

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for the principles they profess—he came to me, and suggested that I should move for the reference of the article on the bill of rights to a special committee. I made that motion, and that is the only motion of the kind I have submitted in this body. So much for that charge.

It seems to have been supposed, by some gentlemen here, from some resolutions that I introduced into this convention during the first part of its session, that I would take the position, and attempt to carry it through here, to have the word "white" stricken from the constitution. I know this was the impression, because gentlemen upon both sides of the house have spoken to me in regard to it. Now gentlemen may think that they know very much in regard to the intentions of "the gentleman from Henry," and they may buzz about, in their little way, concerning the positions of "the gentleman from Henry." Gentlemen may think they understand "the gentleman from Henry," that they are capable of measuring, and can tell just what he thinks, and how far he is desirous of going, and all about it. I would inform those gentlemen that they would come nearer the truth, if they would judge of me by my own speeches, and from my own declarations, and not go to others, and get their opinions concerning me.

I say now, that I have never, for one moment, desired this convention to strike the word "white" from this constitution. That is the position of "the gentleman from Henry." I say now, that if this convention would delegate to me the power, if, with the consent of the gentleman from Lucas, the convention would put me alone upon a special committee, and say they would adopt whatever report I might see fit to make, I would not recommend to this body to strike the word "white" from our constitution. And why not? Because I would not desire to see it stricken out? No. Because I do not recognise that any man has the right to compel the people of this State to take just whatever to him may seem best.

But I say now—and gentlemen may repeat it hereafter whenever and wherever they please, and I shall stand fearlessly upon the record—that I myself would strike that word out of our constitution wherever it occurs, if I had the power, and the people of this State could only be made to believe that it ought to be stricken out. Individually, I think it should be stricken out.

I am willing to live under a constitution, as I have lived before, in which that word does not exist. I was brought up under such a constitution, and I believe it is right. That is my position. There is no favoritism in that.

When, therefore, this question was referred to a select committee, the gentleman from Des Moines [Mr. Hall] has no right to say there could be no such thing as a compromise. I stated upon this floor that I thought a proposition might be brought forward here, that would meet with the concurrence of every reasonable man upon this floor, to whatever party he might belong. Gentlemen can recollect that I made that statement. And when I did come forward with the proposition that this question should be submitted to the people of this State, and they should be permitted to decide upon it, what did it amount to? Was it not consistent with the position I now take here, that no man has a right to force upon the people his own individual opinions? I consult the people, each individual of them, in regard to to his opinions, in relation to this matter, and propose to let him vote exactly as he sees fit upon it. This I do. without endangering, without sacrificing, I might say, the constitution.

And I say again, that when I presented the proposition to the gentleman from Des Moines, as one of that committee, I distinctly understood him to say, and I am certain my ears could not deceive me—"that is good democratic doctrine, the leaving the question to the people." I suppose the gentleman from Des Moines was looking for a proposition from me to strike the word "white" from the constitution, and when I came forward with a mere proposition, a mere resolution to let the people vote upon this question, independently and separately from the constitution, making no hazard whatever of the constitution itself, I thought I saw upon his part a willingness to accept the proposition. He looked over the resolution with me, and suggested some alterations, which were concurred in. I certainly understood him to regard it as being in accordance with sound democratic doctrine.

Now, for the grounds of the charge I made awhile since, concerning the object of printing these reports.

I thought I saw manifested a desire to make political capital out of this matter. What else could I think, when I left the gentleman with the understanding I have referred to, and when he knew I would report the resolution with the alterations he had suggested? And I was exceedingly surprised this morning, when that gentleman brought in here as a report, a lengthy, elaborate argument, which might have applied to a proposition to strike out the word "white" from the constitution now and at once, but had no application whatever to the proposition which I presented to this body. My proposition was a simple resolution that the question should be submitted to the people whether the word "white" should be stricken out of the constitution.

The gentleman comes in here with a most elaborate argument, of which I had no knowledge whatever, setting forth the wonderful and horrible dangers which would result to the people if the Constitution should be so amended, and incorporating into the very body of his report some lengthy speech which he or some one else made upon some other occasion, and which he endorses, with all it contains. I was taken completely by surprise. I understood the gentleman, and others of the committee, I am sure, so understood him, as concurring in the policy

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of putting this question out of this Convention, and have no further agitation upon it here, but permit it to be passed upon by the people as a separate matter.

The question naturally arose in my mind, what is the object of this report? Is it for the purpose of proving to gentlemen here that the people can not and ought not to be trusted? Why so; that cannot be, because the gentleman has always expressed the utmost confidence in the intelligence of the people; and he certainly cannot be afraid now that they would vote to strike this word "white" out of the Constitution. He cannot spread his report here for the purpose of enlightening the constituency he represents, and which are so intelligent, or to enlighten members here in regard to the danger of submitting this question to the people, and allowing them to act upon it.

Then what object could the gentleman have in view in submitting this minority report? Non at all, except what he has himself intimated may be done, bringing in a report here to be printed in the columns of party newspapers to be used for political effect. Now I am not afraid of the effect of anything the gentleman or others here may place before the people, if they will only place the whole matter before them. I shall do nothing here, and I trust the Convention will do nothing, that I should be ashamed to have all God's creation to know. And I am not afraid of the time that this Convention may consume here, whether it be a day more or less.

But I will tell you what I do dislike and despise from the very bottom of my heart: It is, that men, no matter of what political party, whether democrats or republicans, who have assembled here to settle principles of fundamental law which are to guide legislatures and courts hereafter—that these men should descend to make use of their positions here to make political capital. I would not lend myself to assist in carrying out any such plan.

That is the only reason why I shall vote, as I shall vote this time, in regard to this question of printing, the motion to print the other reports having been voted down. I shall vote against printing these reports. As the gentleman from Jasper, [Mr. Skiff,] has already intimated, there is but one idea contained in this resolution from the committee, and the Convention can understand it at once and exactly. It is, that this question shall be submitted to the people, and they are to be permitted to vote upon it as they see fit.

I think the gentleman from Johnson [Mr. Clarke] will find himself mistaken in what he says about the number who will favor this proposition. I believe there are more than five men here who will vote for this resolution; I believe there are more than that number of righteous men in this body. I have greater confidence in the members of this convention than that. And more than that, there are numbers of the constituents of the gentleman from Des Moines [Mr. Hall] and of the gentleman from Johnson [Mr. Clarke] who will not vote for this constitution as it now stands, unless they can at the same time vote upon the proposition I have submitted, or something similar to it, as a distinct proposition. I know there are many of my constituents who are of that opinion; I know there are many such all over the State, who are at heart honest democrats, not lovers merely of one particular class, not the protectors and defenders of merely one class, but they are at heart really honest, democratic republicans, who want to vote for clean democratic principles, and who will not want to vote for a constitution which has embodied in it a distinction which is at war with the principles which we have laid down in our fundamental law. But they will vote for your constitution, if at the same time they are permitted to vote, by way of protest, or whatever you may choose to call it, for a separate clause, which shall in itself say—make your constitution purely democratic and republican. And in voting for that, they will vote for those principles which they believe to be correct.

Mr. HALL. It was Talleyrand, I believe, who said that language was not given to man to express his thoughts, but to conceal them. Now, I cannot for one moment imagine or understand how the gentleman from Henry [Mr. Clarke] could have understood me as he states. The first page, or more, of the report I have submitted, was drawn up at the time he and I had the conversation he has referred to, and I used the very language I have used in this report. I ask permission of the convention to read the first part of the report. It is as follows:

"The only question brought forward for the consideration of the committee, changing the article referred to, was the propriety of striking out the word "white."

The majority of the committee have not deemed that amendment as proper or expedient, but have adopted a special course of bringing the question before the people by a separate proposition and vote.

To this mode of treating the subject there can be no great objection. It resolves itself into a mere question of propriety or expediency."

This was the very sentiment I uttered in the conversation we had together, that there was no great objection to the proposition, it was a mere question of expediency altogether. But the report I made this morning goes on to show that it is not expedient to submit this question at this time to the people.

I do not see how the gentleman could have misunderstood me. But if he has this morning correctly stated his own sentiments, then I have most egregiously mistaken him, and misunderstood his position, for I think the arguments of that gentleman have been most distinctly, unqualifiedly, and vehemently in favor of striking the word "white" from the constitution.

The question recurred upon the motion to reconsider the vote ordering the reports of the

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special committee on the right of suffrage to be printed.

Upon this question the yeas and nays had been ordered.

The question being then taken, by yeas and nays, the mation to reconsider was agreed to; yeas 17, nays 13; as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Gower, Gray, Hollingsworth, Scott, Seely, Skiff, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, and Solomon.

The question recurred upon ordering the reports of the minority and majority to be printed.

Upon this question,

Mr. JOHNSTON called for the yeas and nays, and they were ordered accordingly.

Mr. CLARK, of Alamakee. I have voted for the printing of the reports of both of these select committees. I voted in the first place to have the majority and minority reports of the select committee on the right of suffrage printed, and I then voted to print the majority and minority reports of the select Committee on the Bill of Rights. I voted for the printing in both of these cases, as a matter of courtesy more than from any other motive. I did not believe that it was necessary for the information of this convention to have either of these reports printed. Neither was I deterred, nor am I now, from having these re ports printed from any fear of any political capital that can be made out of them.

I would ask gentlemen, what is there in the reports of either of these committees, or in the arguments accompanying either of these reports, thal should lead them to fear having them submitted to the people of this State? Is it the argument of the gentleman from Des Moines (Mr. Hall), where he manifests a fear of the result of the interference of the colored population of this State in the affairs of our government? Are we afraid to have that argument go out to the world, and let the people know on which side each party is arrayed in this matter? Or is it that other portion of his argument, in which he pays such a marked compliment to the Anglo-Saxon race, in which he says that if the people adopt a provision in the Constitution allowing the black man the right of suffrage, the most evil consequences will flow from it, the blacks will usurp our government, and amalgamation must, as a natural consequence, result from such a course of policy?

Now I would ask the gentleman upon what ground of expediency, policy or right, does he seek to exclude the black man from exercising this right, except upon the ground of his inferiority? Is there any other principle involved in this matter? Has any other reason been advanced in this Convention? Most clearly not. Then I imagine there is no fear to be apprehended from allowing the argument of that gentleman to go forth to the people of this State. They are too intelligent to be humbugged by any such trash as that.

What is the ground work of the argument? What is the principle involved in it? In the first p lace it is, that the African race are too degraded, too ignorant to be entrusted with the right of suffrage; and the Anglo-Saxon race are too superior to allow the African race to exercise this right equally with them. And yet, the gentleman argues, if you accord to the negro the right of suffrage, they will control the ballot box, usurp the government, and rise in power over us. And more than all that, our sisters and our daughters will refuse the alliance of this boasted, this superior Anglo-Saxon race, and seek husbands among this black race; and our brothers and our sons will turn their backs upon the daughters of the Anglo-Saxon, and go to the dusky-browed daughters of the descendonts of Ham for their conjugal consorts.

Now I ask, is there any fear to be apprehended from spreading such arguments as those before the people of this State? Can we presume for a moment that any evil consequences to the republican party can flow from the placing such arguments as these before the intelligent readers and thinkers of our State? Let the Democratic party advance such arguments if they dare; let them sow them broadcast over the State if they wish. I will help them to do so. If these are their principles and these are the arguments upon which they base their principles, and these are the means by which they seek to gain political influence in this State, I say, give them godspeed, and they shall have all my influence to spread their opinions before the people of this State.

Mr. PETERS. I wish to place myself correctly upon the record, in relation to the matter now before the Convention. The principles governing the action of this Convention, I apprehend, go back a few days, and do not altogether relate to the question sprung here to-day. But as I have no desire to keep the Convention waiting at this time, I will move that the Convention now take a recess until this afternoon at two o'clock.

Mr. HARRIS. I hope the gentleman will permit us to take the question now, for I do not feel well enough to come back here this afternoon.

Mr. PETERS. I will withdraw my motion for a recess, and offer a few remarks at this time.

I am one of those who have voted for the reference of matters to select committees. Upon one occasion I voted with the majority for such a reference, when my vote the other way would have produced a contrary result. I did not vote for the purpose of causing delay, or to extend the session of the Convention. I voted for that reference because I thought the matter

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in question had been left in an imperfect state by the Convention. I have, several times since, voted for an adjournment of this Convention, in order to give these committees an opportunity to investigate the subjects before them, and bring their reports before the Convention. Now, if the arguments used then by the majority of this Convention were simply for buncombe, and for the purpose of delay, then I am ready to confess that my impressions were wrong, and my vote was wrongly given.

Now, if these committees, who have had these matters in charge, intended merely to make their reports and lay them silently upon the secretary's desk, without having them printed for the use of this Convention, I think it would have been better for each member of those committees to have arisen in their seats, and given their opinions to the Convention without delaying the Convention by their appointment. I therefore feel a great deal of surprise, after waiting for the reports of these committees, to see the disposition manifested here to have them laid upon the secretary's desk without affording members here any opportunity to examine them.

Mr. WINCHESTER demanded the previous question, which was seconded.

The main question was then ordered.

The question was upon ordering one hundred copies of the majority and minority reports of the select committee on the right of suffrage, to be printed for the use of the Convention.

Upon this question the yeas and nays had been ordered.

The question being then taken, by yeas and nays, the motion to print was not agreed to; yeas 15, nays 15, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, Scott and Solomon.

Nays—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Edwards, Gower, Gray, Hollingsworth, Seely, Skiff, Traer, Warren, Wilson, Winchester and Young.

On motion of Mr. WINCHESTER,

The Convention then took a recess until this afternoon at two o'clock.

EVENING SESSION.

The convention met at 2 P. M., and was called to order by the President.

Order of Business.

The PRESIDENT. The report of the committee on education and school lands is first in order.

Mr. YOUNG. Would it be in order to move to take up the report of the committee on the bill of rights?

The PRESIDENT. It would.

Mr. YOUNG. I move, then, that that report be taken up.

Mr. JOHNSTON. I shall simply remark that Mr. Harris, a member of the committee, is sick, and not able to be here.

Mr. YOUNG. I will withdraw that motion, and move to take up the report of the committee on the right of suffrage.

The motion was agreed to.

The PRESIDENT. The chair will state that the committee have made no alteration in the report of the standing committee on the right of suffrage, but have reported a proposition in the shape of a resolution which, under the rule, must undergo three several readings on three several days. It can only be read a second time now by suspension of the rules.

Mr. WINCHESTER. I move that the rules be suspended for that purpose.

There was no objection, and the resolution was read the second time. It is the resolution reported this morning, and providing for submitting to the people the question whether the word "white" shall be stricken from the Constitution.

Mr. EDWARDS moved that the Convention resolve itself into a committee of the whole upon the report of the standing committee on the right of suffrage and the resolution of the select committee.

The question being taken, the resolution was agreed to.

Committee of the Whole.

The Convention then resolved itself into a committee of the whole, (Mr. Gillaspy in the chair.)

The resolution was read.

Mr. EDWARDS. I would inquire whether that brings the whole subject before the committee—the report of the standing committee and all?

The Chairman decided the whole subject was before the committee.

Mr. SKIFF. The resolution which has been handed in by the committee, of which I was a member, is the production of the gentleman from Henry, [Mr. Clarke,] the majority of the committee assenting at the time. I am not disposed now to find any particular fault with it; but at the time of assenting to it, I supposed that the question to be submitted to the people referred altogether to this particular article of the constitution in relation to the right of suffrage. I think that inasmuch as that article alone was referred to the select committee, we had no authority to report upon anything else, other than the right of suffrage. Persons of color, or other persons except whites, have heretofore been prohibited from voting.

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At my request, and I think it was on my motion, this subject was referred to a select committee, as I stated at the time, in order that the public might have an opportunity afforded them of voting upon the question separately submitted to them, whether colored persons should be permitted to vote or not. But it appears that I did not sufficiently attend to the wording of the resolution handed in here. I shall find no fault with it, except that it appears to me to be going a little beyond our jurisdiction. As I understand it, the committee has no jurisdiction over any question other than the right of suffrage. For my part I am in favor of submitting the question to the voters of this State to say whether the right of suffrage shall be enlarged or not.

I am unwilling that this convention should decide that it shall be or shall not be enlarged. If the people of the State want to vote upon the matter I think it would be perfectly right to permit them to vote upon it; and I know that many of my constituents particularly do want this privilege, as I am well informed. They have requested me to bring this matter before the convention in order that they may vote upon this question whether others than whites shall be permitted to vote. I am informed that there are a great many persons in this State besides those of African descent, who may become citizens hereafter, Indians and mixtures of the Indian with other races. I do not know that I am particularly anxious to exclude them; but I understand that as a general thing the Indians do not care about the right of suffrage. They do not care about the privilege of voting. It is a matter which has never been mooted, so far as I know, whether they shall be permitted to vote. The Indian would rather have the wild prairie to roam over, and be a wild man, than engage in the arts of civilization, and become a civilized person. That is not the character of the negro. The negroes are of a more sociable nature and are a more social class of persons. They desire this privilege. Petitions from colored citizens from Muscatine have been presented to this body, asking that they may have the right to vote. But the Indians have not, so far as I know, intimated any desire for this privilege.

As this resolution is now before the committee, if it should prevail, it will permit Indians to vote. I shall vote for the resolution, but when in order I will move an amendment restricting it entirely to the right of suffrage, When we come to the other departments where the word "white" now stands, if gentlemen want it stricken out, very well. I have drawn up a resolution which I will offer if this resolution should not prevail.

Mr. GOWER. I would move to amend section four of the article on the right of suffrage, which now reads:

"No person in the military, naval, or marine service of the United States, shall be considered a resident of this State by being stationed in any garrison, barracks, or military or naval place or station within this State."

I move to add the following:

"Nor shall any student at college or seminary, in consequence of being such student."

I have known the students in a college to control the local elections; and I think it is just as necessary to provide against that, as against the cases provided for in the original section.

Mr. MARVIN. Does the amendment prevent all the students from voting, whether from this State or not?

Mr. GOWER. I do not so understand it.

Mr. MARVIN. Perhaps this may be considered of no great consequence, but if it is to exclude citizens who are residents of this State from voting while attending school, I shall be opposed to it. And if the original section excludes citizens of our own State, who may be stationed in a garrison or barrack, from voting, I shall be opposed to that. But I do not so understand it.

The question being then taken, the amendment was rejected.

Suffrage Restricted to Whites.

Mr. SKIFF moved to amend the resolution of the committee, by striking out the words "wherever it occurs in the said constitution," and inserting the words "in the first section of the second article of this constitution."

Mr. CLARKE, of Johnson. What is the question before us? I have been correcting proof, being upon the committee of revision, so that my attention has been called away.

Mr. SKIFF. I will state the object of my amendment. A resolution was reported by the committee, to submit the question to the people upon striking out the word "white" wherever it occurs in the constitution. My amendment is to restrict the question to striking it out where it restricts the right of suffrage. My amendment is not to the section itself, but to the resolution of the committee.

Mr. CLARKE, of Johnson. That is what I wanted to understand, whether we we were acting upon the resolution, or upon the article in the constitution. And I rise, now, Mr. Chairman, in order to get rid of this question without wasting time upon it; and I ask the Chair if it would be in order to move to postpone indefinitely the resolution with the amendments.

The CHAIRMAN. (Mr. Gillaspy.) The Chair is not versed in parliamentary law, but is inclined to the opinion that it would not be in order.

Mr. CLARKE, of Johnson. My object is to save time from being wasted upon this resolution to the exclusion of the article itself. I will move to lay the resolution upon the table.

Mr. TRAER. The committee of the whole has no table.

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Mr. CLARKE, of Johnson. Then I will move that the committee rise and recommend to the convention the indefinite postponement of the resolution. Perhaps that will meet the object.

Mr. CLARKE, of Henry. I have no doubt, sir, that the motives of the mover of indefinite postponement are very good and very pure. We are very sure to hear often enough from his own lips that his motives are always pure. We are assured often enough that he is governed by a desire to do that which is right and just, and that he believes in our acting here upon "moral principle."

Mr. CLARKE, of Johnson. I rise to a question of order. I am not before the committee for discussion. It is my motion which is before the committee.

The CHAIRMAN. Shall the gentleman proceed?

Several Members. "Leave," "leave."

Mr. CLARKE, of Henry. I have no doubt that the gentleman really and honestly supposes that by making this motion for us to rise and report this back for indefinite postponement, we shall save time. This, sir, is a new phase, presented by the gentleman. He has been one of those heretofore, who have occupied the position upon this floor that we should give time for deliberation to every subject that comes before us. But we will let that pass. And upon this motion of the gentleman I will make a few remarks in regard to the nature of the resolution which is before the convention, and try to induce the convention in committee of the whole to take such action upon it as they intend to take in its final disposition.

I have remarked heretofore that my position has been misconstrued, and that my true reasons which have been uttered and reiterated here, have been misrepresented; while positions have been manufactured for me, and I have been placed upon the fictitious pedestal without my own consent. I have declared over and over again that I did not come here as the champion of any particular sect, class, or race of men. I have declared that I am not the mouth-piece of any party, nor the exponent of the creed of any party; that I stand here the representative of my district, independent, fearless and free.

Mr. SKIFF. I call the gentleman to order. I do not understand that he is speaking upon this question at all.

The CHAIRMAN. (Mr. Gillaspy.) Shall the gentleman have leave to proceed?

Several Members. "Leave," leave."

Mr. SKIFF. I object, unless he speaks to the question before the convention.

The CHAIRMAN. The gentleman has leave to proceed, in order.

Mr. CLARKE, of Henry. I believe that I have a right, especially is this the case in committee of the whole, to approach my position in the way that seems fit to me; and when I put myself into the hands of gentlemen upon the other side of the house to direct me, and inform me in what way I shall approach my positions, then it will be time enough for them to act the part of task-masters and leaders.

To return, sir, in this matter I am governed by principle. I am governed by those same principles which gentlemen upon this floor, who do not act with me, profess to be governed by all the while. I say that I have not the particular interest of any one class in view in the declaration of these principles. On the contrary, I have the interests of the whole people of the State, and of the country at large, in view, in the application of those principles. Why, sir, the battle has been going on for a great many years, and is to go on for a great many years to come, between the people and those who wish to usurp a power over the people; between the people upon the one hand struggling for their rights and liberties, and those upon the other hand who have either contrived to obtain concessions from the people, or who have wantonly usurped the power of ruling over them. These elements are now at work, all over the world. We find the conflict in China; we find it in every State in Europe; we find it all through South America; we find it in Mexico; and we find it, lamentable as it is, here in our own very midst. And I this day stand battling for the people.

Now, sir, I think there is but one true ground to take in this matter, and that is, that all power is in the people—that they only delegate a certain portion of it to their representatives for governmental purposes. I hold, sir, that true Democracy and true Republicanism are embraced in that immortal declaration of our fathers, which we incorporate into our constitution, "all men are created free and equal." Let us start to-day with that idea. I will stick to it in all its applications, to its fullest extent. I claim to stand here upon these principles, without condescending to their individual application, or to their ultimate effect upon any one individual, or any one class. That is the position I claim to occupy; and I think that gentlemen should deal with me here with some degree of justice and generosity, and let me stand upon the principles which I avow, and not be forever tacking upon every proposition and every amendment I offer an insinuation or direct charge that I do it for the purpose of lugging in the rights of one particular class—the negroes! Gentlemen have not heard me stand up here to defend the rights of that class. They have not seen me come forward and take my stand as the champion of that one class. They have heard no argument coming from me to show them why the negro in particular should be allowed these privileges. That has not been the course of my argument. That has not been my position. I have taken higher ground. I have stood up here and battled for principle. I have done it honestly. I have done it candidly and in good faith. Other gentlemen have applied those principles, and have said that they affect the interests of this class, that this class would

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be benefited by our adopting them. Shall we deny ourselves air because negroes will be benefited by the breathing of it?

Now, sir, look at the resolution I offered, and what is it? Have I offered a resolution that negroes shall have the right of suffrage? Not at all. I do not ask any special legislation for them. I do not want them regarded in legislation as a distinct class. I do not ask for any special provision in our Constitution in their behalf, nor in behalf of Indians, any more than in behalf of Irishmen, or Germans, or Hungarians, or Frenchmen. I merely say here, let us trust ourselves to the principles upon which our free government is based. Sir, it is unsafe for us to trust to any principle short of those, or to curtail those principles, or to make exceptions to them; but we must trust to them in their length and in their breadth, in their height and in their depth, no matter how broad they are. Let all God's creation stand upon them, and still leave room for future creation. I ask for the principle, and that is all that I ask; and therefore I would allow the people to make their constitution a declaration of the rights of universal humanity, so that every one who may settle in this State should come beneath the ægis of that Constitution, and be politically free and equal. No one has heard me claim anything for the negro especially. No one has heard me eulogise him, and say that he is equal to the white man. No one has heard me undertake to prove by history or by argument that he is capable of self-government, and all that sort of thing. I do not for an instant acknowledge that those questions properly come in here. What we have to dispose of is merely a question of principle. Is it right, or is not right? If it is right let us not be afraid of its adoption. If it is not right I would ask gentlemen, for God's sake, to show by argument that it is wrong.

In this connection, I will say that I can but admire the bold and manly spirit of the framers of the Constitution of Virginia, when they came forward in their Bill of Rights, and proclaimed to the world the settled principle upon which their government was based. And when, from the nature of their circumstances, with that institution of slavery in their midst, which had come down to them from their fathers without their own action, it became necessary to make an exception in their Constitution, they go on and make that exception, without going through the hypocrisy of having it connected with their Bill of rights! Take the Bill of Rights of Virginia and read it, and you will find that they declared broad principles, without stopping to stammer and blush over distinctions and exceptions. It is only when having their slaves in their midst they were compelled to come down to this distinction, or abolish the peculiar institution, that they do it; and then they do it boldly in the face and eyes of the Bill of Rights. Thus proclaiming to the world that it is only the necessity, the absolute necessity, of their condition, which forces them to make this exception. Let me read to gentlemen who are so afraid to adopt a Constitution without this distinction, from the sixth section of the Bill of Rights of the State of Virginia.

"6. *That all elections ought to be free, and that all men having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage*, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good."

"15. That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by a frequent recurrence to fundamental principles."

Now, Mr. Chairman, having defined my own position in regard to this matter, having declared that I stand here, not as the champion of any race, but battling for a principle, and that I am not obnoxious to the charge of the gentleman from Johnson, [Mr. Clarke,] of an attempt to lug a "nigger question" into this body, I will come to the examination of the real question, which is before this convention. It is, sir, merely a proposition that the people of this State, at the same time that they vote upon the constitution, shall have the privilege of voting whether the word "white" shall be stricken from that constitution, so that it shall be purely declaratory of universal rights and privileges. The minority of the committee, which reported this resolution, have thrown in a report wherein they submit the wonderful danger, and woful disasters resulting to the State, provided the people, in their madness, should vote to strike out that magic word from the constitution! I look upon the arguments used by the gentleman in that report, as only answerable by ridicule. They are certainly unworthy of anything that would approach to a deliberate and serious argument in refutation. They speak of the colored races coming in here and acquiring a supremacy in our government! Of their taking possession of the ballot box, and voting down the white population! And they dwell with shivering horror upon the other evils that are to follow, the assassinations, rapes, and midnight murders, and the dreadful amalgamation of races, until in some distant future, how distant they have not said, the whole State of Iowa shall be Africanised, and the glorious Saxon race will have become extinct!!

I do not know what proportion the colored population now bears to the white population, but I believe that in the free States there are not more than one to a thousand! The gentlemen have not told us where these colored voters are to come from! Have they in their imagination conjured up any corner of this country whence this dreadful influx of Africans is to be poured upon us? There are a certain number now in the free States. Would the passage of this provision, and the striking out of the word "white" from the constitution, make that number any

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greater, or even induce the pouring of the whole colored population upon our borders? Do the gentlemen really believe that it would have that effect. And even if it should, do they honestly believe that the train of evils they predict would follow? Do the gentlemen seriously come before such a body as this, and tell us that they really *have fears* that the whole body of negroes in the north will be precipitated upon our State by the mere striking out of the word "white" in our constitution? Why, sir, go to Massachusetts; search its constitution; do you find the word tnere? Do you find it in New Hampshire? Do you find it in Vermont? Do you find it in Rhode Island? Do you find it in New York? It cannot be possible then that this reason is urged here in seriousness! No, sir, it is merely thrown in as a sort of make-weight, to help them out in their silly drivelings of prejudice, through which they hope to array the public feeling against the majority of the members upon this floor. It is intended not for calm reasoning upon the question at issue, but for political effect; for effect upon the masses of the people, who they foolishly imagine may be caught by such ridiculously palpable clap-traps, and brought to sustain them in that modern democracy, which will soon deny all right, that is not enforced by might, and all wrong that is the offspring of power.

Why, sir, if gentlemen are in earnest in regard to this; if they are afraid, as they say, to "encourage negroes to come here," by having the constitution based upon correct principles; why dont they go a little further? Why not advocate action which shall not encourage, but actually discourage them? They would effect much more, if they would even incorporate into the constitution an article requiring all men to wear their hair and beards unshaven. This, sir, would be doing something noble, in comparison to their present course. It would at least have the credit of being courageous; it might in fact be considered as bearding the lion in his den! It would be saying to colored barbers, hands off, we cannot countenance your coming into the State.

Again, sir, the question is asked, "would you put the blacks here upon an *equality* with the whites?" "I am opposed," gentlemen say, "to making them *equal* with the whites." I think such gentlemen must certainly be very jealous in regard to their position in the community. They must be very sensitive in regard to the tenure of their rights and privileges; in regard to their standing, morally, intellectually, socially, if they suppose that by the mere removal of a political restriction, colored men are to be put upon a complete equality with them! Are the gentlemen in earnest in this argument? Do they really intend to have it understood that they have plainly presented their opinions in the minority report, as regards the effect of the adoption of such a provision upon their standing in this community? I would ask the gentlemen if the man who comes staggering from the groggery, and deposits his ballot in the same box with them; if the man who comes reeking from the stews of the brothel, all leprous with pollution, and stands beside them, cheek-by-jowl, on the day of election, hurrahing for the same candidate, and working in the same ranks —I would ask the gentlemen if they consider those men as their "*equals?*" Because we allow to every white man the elective franchise, can the gentlemen say to us that we are making them all *equals?* Is it not then unfair, is it not contemptible, for gentlemen to get up here and charge that we want to make "negroes the equals of white men." It is not in the argument; it is foreign to it. If God has made them equal, they are equal; but human constitutions and human laws can never make men equal. Politically equal we all are. But morally equal, socially equal, intellectually equal? No, sir; no man ever attempted, or ever would attempt, by legislation, or by any section of any constitution, to say that they are equal!

I am, therefore, not called upon at all to answer any argument that may be brought up here to show, even if they can show, that negroes are not our equals. Sir, I almost feel a loathing, in my whole nature, at such kind of talk, and such kind of bickering, for it cannot aspire to the dignity of argument.

Sir, I am in favor of good democratic principles. I am so much of a democrat, that I am willing to trust them, carried out to their full extent. Ever since the organization of this government there have been men who have been distrustful of the workings of true democracy. They have attempted to throw over the people checks and restraints of various kinds. They have attempted to restrain the liberty of speech and the liberty of the press. They have been self-appointed Cæsars. They have passed their alien and sedition laws, and have ever been jealous of the intelligence and correct action of the people. As for me, sir, every year of my life but renders the conviction more and more strong, that the less you restrain the people the better; that the "greatest liberty of the greatest number" is the true principle to act upon in this government. I have that confidence in the intelligence and correct action of the people, that I believe that in all these things wherein they can act with fidelity and expedition, they should be trusted to act. It is only when they can thereby act with greater facility and more correctness, that their powers should be exercised and carried out by representatives.

The principles that I have advocated this day, will hereafter triumph in this State. Gentlemen may mock at me; they may scoff at me; they may write me all over with epithets; but I tell you, sir, as there is a God in Heaven, the principles I this day advocate, *shall* yet triumph in Iowa. I tell you that the day is coming when the people of this State shall not be afraid to carry out to the letter, the true intent and spirit of every iota of the true democratic creed. The people are able to take care of themselves. They

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need no self-constituted guardians to tell them who shall vote, nor when, nor how, nor for whom. These are mere hallucinations that gentlemen indulge in, when they suppose that by trusting the people to act upon the democratic principle of "universal suffrage" the principle laid down in the sixth section of the Virginia bill of rights, they will be induced to run into anarchy, and that all order and good government will perish. That has been the cry from the commencement of the government, and always, from those who, conceited in their own wisdom, think themselves superior to the great body of the people; and wish, therefore, to prescribe for them the rules under which they shall act.

Mr. Chairman, you and I, both of us, know that we may trust this matter with the people. We know it, not only because we know that the principle is true and correct, but we know it from the past. We know it from the experience of other States who have tried it, and who have yet undergone none of the direful changes and suffered none of the evils that have been so feelingly portrayed by the lachrymose gentleman from Des Moines, [Mr. Hall,] who seems on this subject to be suffering a political hypocondria. Let me ask you, sir, does not the fact that Connecticut, the only New England State having this word "white" in her constitution, will be found to have a greater population of negroes within her borders, I believe, than any other State in New England—does not that fact show that the fear which the gentlemen pretend to indulge that the striking out of this word will bring them into our State in large numbers, is groundless? If such were the case, I ask you if all the negroes in Pennsylvania, in Ohio, in Illinois, in Indiana, and in all these other States which have this restriction, would not have emigrated long since to the New England States, and have filled up New Hampshire, Massachusetts, Vermont and Rhode Island?

But, sir, the question is not whether we shall strike this word out of the constitution. It is merely whether the people shall be permitted to vote upon the question of striking it out. The people of the district which I represent will many of them never vote for a constitution that makes such a distinction, unless at the same time they can vote to wipe it out; and sir, I myself am of that number. I know there are many such in other parts of the State. Gentlemen may call them fanatics. They may call them by any other name which to them seems suitable and in good taste. But sir, the vote of one of these men, thank God, will weigh just as much, and is of just as much importance, as the vote of the gentleman who thus arraigns them; and their rights are as much to be considered by us in the framing of this constitution. If we can, consistently with duty and principle, we should make a constitution which they can endorse and vote for. By thus submitting to them a separate proposition upon this question, we allow them indirectly to vote for a constitution that is suited to their consciences. This has been done before. It has been done in Michigan; it has been done in New York. It has been done in several other States of the Union. It is therefore no new and startling proposition, no innovation upon "democratic usages," that these gentlemen should start back from it with such marks of holy horror. The thing has actually been done in those States, and the Anglo-Saxon race yet survives!

Gentlemen ask "what good it will do?" Do we expect to carry a majority in the State? Mr. Chairman, I do not expect a majority will vote for it; sir, I wish that the State was in such a condition that we could vote for the resolution with an expectation of success. Yes, sir, I wish that we could now vote for a consitution that would be perfectly clear of all exceptions. I wish most sincerely that the time had come when the people of this State should have such perfect confidence in the principles that underlie their government, and in their own strength and ability to take care of themselves, under all circumstances, and with whatever population might come to them, that they would be willing to vote for such a constitution as I should now like to see—the constitution of Iowa, a constitution of principles without exceptions; a constitution for the whole people without any distinction of men. But I do not believe the time has yet come. I do not believe there are even many more in the party with which I am acting, than in the other party, that will trust themselves fearlessly to these principles, and to such a constitution. That painful and mortifying fact is proclaimed and urged here by democrats and republicans alike. Yet it does not deter me from pressing this resolution.

No, sir: it was for that very reason that I first offered it. I have said if the power were given me to strike out the word "white" from the Constitution, without submitting the question to the people, I would not do it! By so doing, I believe most sincerely, that I should risk, nay, sacrifice, the whole of our labors, and put the people to a needless expense; for I believe that a majority of the people would vote against the Constitution. While I believe this, I still believe that if the people were correctly educated in this matter; if they would throw aside this childish timidity, this worse than foolish prejudice, that leads them to imagine innumerable evils that might fall upon them; they would go for just such a constitution as, under which, I, too, would rejoice to live—a constitution free from all invidious personal distinctions, and based upon universal suffrage.

I trust, Mr. Chairman, that gentlemen here are willing to act in this matter for the people, and not to carry out their own whims. I trust that they will not forget, in their action, that there is a large class of people who would like to vote upon this as a separate proposition. I trust that gentlemen will be candid and honorable enough in this matter, to separate from this question those extraneous questions that have been dividing the political parties of the country, and

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come right up to the single question that is presented by this resolution, without distinction of party. There is no reason why gentlemen should come in here and indulge in the course of remark in which they have indulged upon a former occasion in this body. There is no reason for their coming in and accusing me or any other member of having the negro alone in view in this matter. Cannot they go beyond that? Cannot they conceive of men so thoroughly imbued with love of the principles upon which the very government of their country is based, that they are controlled by those principles, and are unwilling any where to admit that they are governed in their actions by their feelings alone? Need I say to gentlemen that I myself acknowledge to the weakness—though I trust not criminal weakness—of all those antipathies and prejudices that seem to be incident to our people and our race? I acknowledge, with something akin to shame, so far as I am concerned, to a great repugnance against that injured and degraded race—the African.

But, sir, perhaps it arises from education, and is induced by that very degradation; in spite of all these, and in spite of that feeling which leads me to cry out at times, "would to God I had the power to transport every one of African descent back to the continent from which the race originated;" while I feel in my heart a sorrow that they do exist in our midst, and while I cannot look forward to the future at times without as great anxiety, fear and troubled forebodings as any gentleman of the opposite side in regard to the possible conflicts that may arise between the two races—yet, sir, in spite of all these things, I throw aside my own feelings and prejudices, and say, let us unite together and do right, whatever the consequences—"let justice prevail though the heavens fall"! Now, when gentlemen come to me and are so unkind and ungenerous as to say that I am doing this for "the love of the negro," I tell them that what I do here in this matter I do from a conscientious love of the principles in which I have been nurtured, and under which I have lived all the days of my life. If I am very earnest in this matter it is because of my exceeding earnestness of nature, and my warm attachment to these principles.

I say, again, I care not who are benefitted by the adoption of this provision; and I care not how many, if it be all God's creation, so much the better. I go for principles that will *reach all*, and those are the only principles that are worth anything. When you come short of these, you are taking a step away from Democracy towards aristocracy, towards monarchy. Yea, you are retiring by gradual steps from the Democracy of America to the despotism of Russia, and this interpolation of the word "white" into our constitution, is one step in the departure. All I ask, therefore, is that the convention will submit this proposition of striking out the word "white" from the constitution, as a separate question for the people to vote upon.

Allow me to say, before I conclude, that so far as the gentlemen in the opposition are concerned, with one or two exceptions, they have treated me with much more courtesy, and liberality, than some gentlemen who profess to occupy the same position in politics with myself! I here acknowledge this courtesy, and I say to them, they will find wherever I have the opportunity, that I will deal with them in the same spirit of liberality. I was astonished at some remarks that were made this morning by a gentleman, who characterized the discussions that have taken place in this body, upon these questions, as "lugging in the 'nigger' question to consume the time of the convention!"

I was astonished to hear gentlemen get up and ask leave to have certain proceedings suppressed, for fear they might cause the people to believe that we had been consuming the time of this convention in the discussion of an abstract question, which they called the "nigger question!" If those expressions had come from the lips of some gentlemen from the other side, who have been vainly trying to heap odium and contempt upon us for the positions we have taken here upon these questions, I should not have been so much surprised. But the gentleman who made use of that expression, made one of the longest speeches that has been delivered here during the session in defence of one of those very amendments that were offered here by me, and under which this "nigger" question, as he termed it, came up for consideration.

This is not a negro discussion. Those gentlemen who have been opposed to these principles, have attempted to make it so. They have used the expression "nigger," and attempted to make the question, and those connected with it, odious to the people, by the association. From the beginning, I have occupied the same position. I took this position in regard to the admission of the testimony of all classes and sects of men. I denied that I had in view any particular class. I meant to declare a principle that should restrain any future legislature from not only interfering with my right, but the right of others, to take the testimony of any class of men. I made the principle just as broad and general as I could; and the gentleman from Des Maines [Mr. Hall,] even made the objection that the amendment I offered was so broad, that it included everybody! I meant to include everybody; I did not, therefore, admit that I meant negroes or Indians. I was willing to leave it to the twelve men, who should sit in a jury box, to pass upon the credibility of any witness that might come before them, no matter who he was. I wished to take forever from the legislature the power of saying, that any particular class of men should not be allowed to give testimony, or that I should not be allowed to have the testimony of any man merely because he belonged to a particular class of individuals. My position in regard to the question now before us, has been the same. I came here to present no factious propositions for the purpose of creating agitation, excitement and discussion. I ask

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gentlemen, if I ever asked this body, knowing how it was constituted, to strike out the word "white" from this or that article. True I opposed the proposition, when it was offered by one gentleman here, to strike it out of the article on militia, and I gave, as my reasons for it, that we were calling upon the colored men to perform duties, where we refused to protect them in their rights.

I now come before this body in the hope that they will allow this question to go to the people without a discussion upon the merits of striking out the word "white," or without following it out to its results, to see who will be affected by it.

It is most amusing when we look back and observe the workings of some of the State constitutions that have been adopted in this narrow spirit of distrust and prejudice. Some of them have been so jealous of negroes, and negro blood, wherever they could find it circulating with Saxon mixture in any human being, that they have provided in their constitutions, that no negro or mulatto should be allowed to vote. While at the same time you will find it—and this is the case in the constitutions of Michigan and Wisconsin—that Indians, and persons of Indian descent, and Indian blood, shall be allowed to vote, if only residents of the State. How does it operate? After their constitutions went into operation, they found a large class of persons who had negro blood, but none of Indian descent, and could, therefore, go to the ballot box and deposit their ballots. While a person who had nine-tenths Saxon blood in his veins, and only one-tenth negro, was not allowed to vote at all!

I have lived, myself, sir, under almost such a constitution as I would have this; and so has the gentleman from Des Moines, [Mr. Hall.] I have some recollection of the time when the struggle upon this question was going on in that Empire State, and I was intimately acquainted with the gentleman who made the first move in the Assembly, to get rid of the last fragmentary end of slavery that was left in that commonwealth. For a great many years he was covered all over with as many epithets as gentleman can possibly bestow upon "the gentleman from Henry." He was looked upon as the great champion of the negro. But, finally, the proposition which he presented to the Assembly was carried through, and slavery was done away with forever in that State. Some gentlemen, who, at the time, perhaps, owned some of these slaves, were afraid that when they were set free they would become worthless vagabonds, and that it would be necessary to make special laws in regard to them, as in England they did in regard to the Gipseys. They finally came to the sage conclusion that, if a negro showed ability and enterprise enough to acquire property, it was pretty good evidence of his respectability and attachment to the community: and, therefore, they incorporated into their constitution a provision that, if a negro was worth two hundred and fifty dollars, he should be allowed to vote. That is all the restriction they have in New York. I have lived in one of its cities where there was a large number of this class who voted under the property qualification. They had a church organization by themselves; met together in other organizations, and had their discussions upon political and other subjects, and went to the ballot boxes and deposited their ballots; and when counted out they looked and counted just the same as those of white folks, and I presume the gentleman from Des Moines could not even have smelled a difference. For the last five or six years before I left New York, their votes were deposited sometimes for the third party candidate, but most generally for the old Whig party. Lest some here should be anxious in regard to their manner of voting, I would say that they would go quietly to the polls and hand their ballots to a white man who would deposit them in the same ballot box with white men's ballots! I never heard that this vote had, in any manner, worked disastrous results in that State, and I never saw an article in a paper demonstrating that the vote of the colored race had effected any great political change or revolution in the State! Strange as it may seem, New York has continued to prosper, notwithstanding this vote given by colored persons; and I believe, as yet, she evinces no visible signs of decay! The people of that State have found and demonstrated that they are fully able to take care of themselves under this provision, and their government still moves on, notwithstanding they have refused to exclude the colored race entirely from the privileges of the ballot box! And the gentleman from Des Moines once voted with "niggers" in New York; and he, too, survives to bless us with his experience, his wisdom and his *philanthropy*.

Sir, I am opposed to this spirit, so very often manifested by legislators—this jealousy of the people—this being afraid of "the mob," to use a term that has been often used in this connection: "The mob! the mob! the many-headed monster!" has been the cry for centuries in the old world. It was the cry that was raised in old federal times, and it is the cry which some gentlemen, who profess to be simon pure Democrats, now raise in our midst. I tell you, that the people, if left to themselves, can take care of themselves. I believe that all the evils which gentlemen have depicted here as likely to flow from the adoption of the provision here recommended, are merely imaginary, and that if you can once get the people up to the point where they are willing to really trust to those principles that underlay the very foundation of our government, they would make a great step forward in the path of true progress. I hope that this subject will be fully considered in Committee of the Whole, and that we may take such action here as will show the final disposition of this whole matter.

To you, Mr. Chairman, [Mr. Gillaspy,] a political opponent, so widely differing from me

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upon this and kindred subjects, I tender my thanks for the kind consideration with which you have treated me personally, and for the patient attention with which you have listened to my remarks and entertained my argument. Situated as I am, sir, with a feeling on every side that I may hold in my hand a lighted torch for the springing of a mine; with gentlemen ever ready to call me to order, and start back from my incendiary propositions; I assure you, sir, I am very grateful for the smallest favors or the slightest courtesy.

Mr. CLARKE, of Johnson. I move that the committee rise.

Mr. ELLS. If the committee rise now does it not bind us to an indefinite postponement of this subject when we come into the convention?

The CHAIRMAN. It will not, in the opinion of the chair.

Mr. MARVIN. If this motion to rise be agreed to, we shall be under the necessity of recommending the indefinite postponement of this resolution.

Mr. CLARKE, of Johnson. My object in making this motion was to save this discussion. If it is to go on, we may as well have the benefit of it here as in the convention. I will withdraw the motion that the committee rise.

Mr. MARVIN. I feel embarrassed in attempting to speak upon this question, for there has been no time, since the meeting of the convention, that I have been so illy prepared to discuss any question as at this time. I did not suppose that I would be called upon to express my views upon this question. I supposed that the expression of the convention would be almost unanimous in favor of giving to the people of the State the privilege of saying "yea" or "nay" upon this question, and I did not deem that it would meet with any serious objection. If this opposition came from the Democratic side, I would not say a word. But from what I see and hear I anticipate objections from another source.

I ask gentlemen if one-third of the Republican party left the old Democratic party simply on account of banks, railroads and internal improvements? What do you suppose compelled us to make war upon the old Democratic party, if it was not for the principles of freedom and equal rights, which we considered were trampled under foot by that party? I acknowledge with pride, that I could not have occupied this place, had it not been conferred upon me by those who are in love with the great principles of freedom and the equal rights of all men. It is because I am fondly attached to these principles that I am a Republican to-day. If we are to lose sight of these great principles, and prove recreant to the trust confided to us by the people, it will require no prophet's tongue to foretell that our doom as a party is sealed.

I hold the acknowledgment of the equal rights of all men to be a sacred principle; that no policy should deter us from advocating it at all times; and I have endeavored and shall endeavor to maintain that principle to the best of my ability, no matter in what position I may be placed. I am happy to say that the position I hold here is not only in accordance with the feelings and sentiments of the republican party, but of a great many of the democratic party in my section of the State. I feel that we should not any of us trifle with the principles which the people to a very great extent hold sacred. I know there are thousands of persons that think so much of the maintenance of this principle, that unless it were presented to them in some shape, they could not be induced to vote for the constitution.

It is perfectly plain to me, that the people should have the privilege of voting upon this question. Is it asking too much to grant them that privilege? Why do gentlemen of the republican party tremble at the prospect ahead? It is because of the great and glorious sentiments that the republican party have enunciated as their cardinal doctrines, that they are so greatly in the ascendency in this State to-day, or else I do not know anything about political matters.

I do hope that men of all parties here will seriously consider this subject, before they say to the people that they shall not have the privilege of saying "yes" or "no" upon this question. It is not a mere act of liberality, but it is an act of justice to the people, that this question, which has certainly to a very great extent entered into the political discussions which have been going on for a year or two past, should now be submitted to them. It is an act of justice which the people have a right to demand at our hands, and we have no right to refuse it, on the plea of losing party influence or personal popularity. If I understand the principles of the republican party, I love them just as dearly as any man here can, and I would do anything that was just and honorable to elevate that party to power in the State and in the nation. But I would sooner see that party resolved into its original elements than do anything that did not accord with the principles of right and justice.

I hope the convention will pause and consider well, before they say that the people shall not vote upon this subject. The question now before us may be a party issue; if so, I hope my republican friends will meet it boldly and manfully.

Mr. ELLS. If there are gentlemen here, Mr. Chairman, who wish to speak in favor of the minority report, tell us the substance of it, let us know how they stand, and what they mean to do, I will be very happy to hear them. I dislike to hear arguments all upon one side of this question. I wish those gentlemen, who claim to belong to the simon-pure democracy would come out and give us the reasons why this question should not go to the people. Are they afraid to trust them? I thought it was the legislature of which they were so much afraid. Now it seems,

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however, that the dear people are not to be trusted in a question of this kind. Come out, gentlemen, and show us how you stand. I wish to hear you speak upon this question, and I am in earnest when I express this wish. I do not care about their attempting to refute the able arguments of the gentleman from Henry, [Mr. Clarke,] and the no less able arguments of my friend on my right, [Mr. Marvin,] but I would like to hear gentlemen give some reason why this question, whether the word "white" should be stricken out of the constitution, should not go to the people.

If there be no one to speak, if gentlemen will not undertake to present any reasons for refusing to submit this question to the people, I will, with your leave, Mr. Chairman, offer a few observations upon this question. If I were to state my own principles and the principles that I have always held, I should not be enunciating or declaring anything new to members of the convention, but they would justify me in saying that I am willing that the people should settle this question. I believe that the people are the source of all power, and when a majority of them have said that they will have this or that, if I am in the minority, I am bound to abide by that expression, and say that the people have spoken. It is this spirit which leads me to say that this question should go to the people, and if they vote that the word "white" shall be stricken from the constitution, I will abide by the decision and say that it is right, because the majority have spoken. To take any other position would be to repudiate the principles upon which our government is founded. I would like to hear any argument from any gentleman that would controvert that broad principle.

That is one question; but the other question, the expediency of striking out the word "white," is an entirely different one. Now, sir, I hold that man is not a true reformer, who will go so far in advance of public opinion that his influence is lost upon the public opinion. Every man, whatever may be his ideas of expediency or progress, must, in laying out his work, ascertain exactly where he stands in reference to those persons who are to be influenced by his actions. If he does that then he is prepared to go ahead. I do not believe that the people of Iowa would to-day vote in favor of striking out the word "white," but I am perfectly willing that they shall have the opportunity of saying, whether they are in favor of it or not. For myself, I am to-day trying to represent the people of Scott county. The question now before us was not mooted, when I was a candidate for the office I now hold, although the gentleman opposed to me in that canvass did publish a short address prior to the election, in which he stated that I was advocating an amendment to the constitution, which would extend the right of suffrage to negroes. In reply to that charge I stated, that I did not advocate that measure. I did not deny that I held such views, but I merely stated that I was not the advocate of that proposition as a principle of action for this convention.

So far as I am concerned, individually, I am perfectly willing that the right of suffrage should be as broad as the universe of God. I have no fears in trusting any class of men with the right to vote, provided they have the qualifications of *manhood*. A portion of my constituents are in favor of having this question submitted separately to the people, and they requested me to secure them the privilege of voting upon it. They are a class of men that I respect as much as any other of my constituents. They are old Scotch Covenanters and Presbyterians, as honest men as ever lived upon the face of the earth, men who are universally respected for their integrity, and who hold themselves strictly accountable to a Higher Being for every thing they do. They said to me, we ask you to give us a constitution which shall recognize the right of the negro to vote; if you give us that principle we will vote for its adoption. In reply, I told them, that if the question came up in such a form that I could give them that privilege, I would certainly do so; and I intend to do it. For myself, I have no fears of trusting this question with the people.

Believing that a majority of the people of Scott county, and the State of Iowa, would not sanction a constitution with the word "white" stricken out, I should not vote to strike this word out, because I wish to save the constitution for the people, and for posterity; but I shall vote in favor of submitting the question separately to the people, and allowing every man who desires to do so the privilege of going to the ballot box, and there depositing his ballot for or against the proposition. If a majority of the people shall vote, for striking the word out, I shall not dissent from that opinion. My own convictions of right I will avow everywhere, but I will represent the wishes of the people, so far as I know them, faithfully and honestly. In voting to submit this question separately to the people, I am following out their wishes, so far as I know them.

My friend has well said here, that if the Republican party failed to meet the expectations of the people in this respect, they would be only able to reckon upon the time between the present and the ides of November as the only days they will know as a party in this State. There is nothing more sure than this result. What is it that would distinguish us as a party from the old line Democracy, if we dare not express our sentiments, and cast our votes freely in favor of freedom. I would "rather be a dog, and bay the morn," than such a Republican. I claim that we have made so much progress in the cause of freedom that there is a desire now on the part of the Democracy to drag us down from our high position, and to that end, they seek to throw every obstacle in our way to hinder the progress of Republicanism.

It was generally understood that some of the leading members of the opposite party were at

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first in favor of submitting this proposition to the people, and that they would join in the report recommending it.

But when the majority presented their report upon this question, we find two of the opposite party presenting a minority report, appealing to old miserable prejudices, intended to excite a feeling among the people that the Republican party in this convention were taking extreme ultra grounds. But I am willing, so far as I am concerned, to meet them upon the question here presented, boldly and fearlessly, and to abide by the decision of the people. If they decide against the position which the Republican party here take upon this question, let the decision so remain until we can convince the people that they are wrong.

I am for leaving this question to the people, believing that in so doing I am not endangering the success of the Constitution. I ha.e no fears if the people shall decide to give colored people the right to vote, that I shall be endangering the prosperity of the State. The idea that the negroes will all come here if we allow them this privilege, is the most preposterous doctrine that was ever uttered in any assembly. The gentleman from Henry [Mr. Clarke] has already called your attention to New England, and I wish to call the minds of gentlemen to a single fact, that Connecticut is the only State there where colored men have not the right to vote, and yet she has in proportion to her population as many free blacks as any other State in New England. Why do they settle there, and why do they not go to other States where they will have the right to vote? It is for this reason: that the negro is like any other man, who settles where his interests are the strongest. Wherever his own personal advantage is concerned there he will remain, and just so it will be in this State. The negro will come here if his interest will be promoted by so doing; if it is not he will stay away.

It is a fact, that every man of observation will admit, that the negro of this country is not progressive but stationary in his habits. In a large majority of cases he is willing to endure all the wrong that may be inflicted upon him, rather than to fly to others that he knows not of. I am satisfied that the free negroes of the South have a greater horror of this northern climate and of the people who live here, than they have of slavery in its mildest form. I am satisfied of this fact from my own experience. The climate of Iowa, like the climate of Canada, and the extreme northern States, would keep away the colored race, if it were not for the fact that they can enjoy a certain measure of freedom. That is all the inducement which brings them here. It is the desire to get away from the unnatural and cursed institution of slavery that impels the negro to flee to the north, and endure the horrors of a Canadian winter.

I visited the negroes in Canada, opposite Detroit, and while there, I conversed with their most intelligent men, and I became perfectly satisfied from my observations there, that all things considered, they were doing better than poor men generally in the slave states. Many of them had acquired wealth, and paid taxes upon fifteen or twenty thousand dollars of property to support Queen Victoria's government. Said a colored gentleman with whom I was conversing, if slavery were abolished in Kentucky, or any other southern state, I would go there at once, because I prefer to live among a people that have no prejudice against my race.

There is no doubt sir, but what there is a prejudice universally existing here at the north against color. I feel it myself, and so does almost every other man. At the first thought, I look at the negro simply as a black man, and feel a repugnance to him, but the moment he approaches me as an intelligent being I forget that he is black. I believe that is the experience of most northern men—southern men have no prejudice against color; with them it is the condition. In support of this assertion, and to the credit of the South, I will give you a fact in illustration.

Several years since, an old minister of the gospel of Christ, educated at Middlebury College, Vermont, a young mulatto, intending him for the ministry. After he had completed his studies, the old gentleman applied to several theological institutions of the country, of his peculiar faith, for permission to enter his young friend as a theological student, but without success; such at that time was the state of feeling in these institutions. He then furnished him the means and sent him to Edinburgh, Scotland. At Albany the young man took passage on a steamboat for New York, and for presuming to enjoy the privileges secured to him by his first class ticket, was treated with contempt by a lot of northern negro-hating dandies. This attracted the attention of a southern gentleman—a slaveholder. This gentleman, with a view of ascertaining the extent and knowledge of a northern free negro, spoke civilly to the young man, and received a civil answer in good pure Anglo-American-Saxon. Perceiving that he was a well educated man, he addressed him in Latin and was answered in Greek, when the southern gentleman remarked, you have got beyond my depth.

This conversation occurred on the upper deck. He then invited the young student into the saloon, and proposed to join him in a glass of wine. The young man accepted the invitation to the saloon, but from principle, declined the wine. A long conversation followed this singular introduction, in which the young student gave his friend of the hour, a hasty sketch of his life, and his plans for the future. At parting, the southern gentleman gave him a cordial invitation to visit him if he ever came south, remarking that he had no prejudice against color, but was always happy to meet an educated gentleman.

These facts were given to the public on the following day at a meeting of the American Anti-Slavery Society in New York, by the young

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man himself, and were published in the newspapers at that time.

With this knowledge of the northern character on the part of the negro, and the feelings that so universally exists in the minds of the people of the north, I think gentlemen need give themselves no anxiety about the negroes coming here in great numbers, even if the people of the State vote to give them the right of suffrage.

It is only when they become thoroughly educated and competent to defend themselves everywhere that they become migratory, except in those cases where they run away to escape those punishments which slavery so often inflicts upon the victims of its cruelty. Indeed, sir, I cannot look upon the question of negro suffrage as a practical one in this State; and I am satisfied that were it not for carrying out a consistent rule of right action, that no considerable portion of the people would give any attention to the subject. By the census there are less than three hundred colored persons in the State, all told; scarcely enough to make an exception to the rule.

I am pleased to see the Republicans of this Convention, with the single exception of the gentleman from Johnson, [Mr. Clarke,] so thoroughly united in the justice and expediency of submitting this question to the people.

The Republican party of this country, sir, is emphatically a progressive party; and any man or set of men who attempt to prescribe limits to its political action for all coming time, must set their bounds far into the *misty future*, or they will find themselves overwhelmed with the "ground-swell," now setting inland from the mighty ocean of moral truth. That which satisfies the people to-day will become obsolete and be cast off to-morrow. The wonderful developments made in the moral and political, as well as the natural sciences, within the last twenty years, admonishes us to be careful how we cripple ourselves by the adoption of any short-sighted policy of political action. Let that good old scripture admonition be our rule of action: "Sufficient unto the day is the evil thereof." Let us do right, and leave the consequences to God and our country.

Mr. CLARKE of Johnson. I did not intend to participate in this discussion at all; but, inasmuch as the gentleman from Henry, [Mr. Clarke,] in his confessions and autobiography delivered here awhile since, paid his respects to me; and, inasmuch as the gentleman from Scott, [Mr. Ells,] intimated that I am afraid to express my sentiments upon this question, I deem it my duty now to make a few remarks. In the first place, I take issue with the gentleman from Scott in saying that this is a party question, and I deny here that the Republican party of this or any other State in the Union, has ever taken ground in favor of giving to the negroes the right of suffrage.

Mr. ELLS. I did not state, in any remarks made here to-day, or at any other time, that this is a party question. But I do say, sir, that in battling against the extension of slavery, we are contending against those unnatural prejudices that have so long existed in the old Democratic party. I stated that this constituted one of the distinguishing features between these two parties. All I desire, in our action here, is, to give the people of the State an opportunity to express at the ballot box their wishes in regard to this word "white."

Mr. CLARKE, of Johnson. I remember hearing, during the late canvass, a distinguished Democratic elector, upon the steps of this capitol, charge that the Republican party were in favor of giving negroes a right to vote. I remember turning away, while this Democratic meeting was in progress, and addressing a Republican meeting that same day, in which I took occasion to denounce that declaration, as one unwarranted by the facts. I understand the doctrine of the Republican party to be opposition to the extension of slavery. But while they take this position, they do not propose to take any steps to interfere with it, where it legally exists, only to prevent its extension over territory now free.

I understand, furthermore, that the Republican party are in favor of abolishing the distinctions that exist in the free States, which prove a bar to the colored man in the enjoyment of his rights; for instance, such a law as that which existed in this State prior to the last General Assembly, which prohibited negroes from giving their testimony in courts; or such as that, which would prohibit them from settling in our State, and such laws as those which deny to them, as colored men, those rights which are necessary to the enjoyment of the rights of every individual. I understand that the Republican party are opposed to all such laws as these, that they are willing to repeal them, if any such exist upon our statute books. Or in other words, that the colored population if they come here, shall have the right of protection under our laws, and shall be protected in the enjoyment of their rights of property. This I understand to be Republican doctrine, and thus far I am a Republican at heart.

We have been told, by the gentleman from Henry, [Mr. Clarke,] that upon a question similar to this, I made a very long speech. That is true, and I am not ashamed of that speech, and I trust the time will never come when I shall blush for it. I did speak in favor of giving the negro the right to testify in courts of justice, not only as a protection to him, but to the white man. That doctrine I shall support, and always maintain.

Some gentlemen here are placed in a very singular position, for we find them arguing in favor of submitting a proposition to the people, when they distinctly avow here that they would not vote in favor of the proposition themselves. This may be Democratic in the extended meaning of that term which these gentlemen use. But it seems to me like trifling, like an attempt

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at cajolery, to come here and argue in favor of submitting a proposition to the people, for which they will not vote themselves. When I vote to submit a proposition to the people, I shall be willing to vote for the proposition itself.

It has been laid down here time and time again, that we were not sent here to remodel this constitution, but to make some amendments upon subjects which were discussed before the people, and with reference to which we were elected. I beg leave to ask the gentleman from Henry, [Mr. Clarke,] or any other gentleman upon this floor, if this thing of submitting the question to the people, whether negroes should be allowed to vote, was ever publicly discussed? In what district was there a candidate who was called upon to express his views upon this subject? The gentleman from Scott [Mr. Ells,] admits that it did not enter into the canvass during his election, and I may say the same of my district. I say that the people do not ask any such thing at our hands. We have had petitions here from the people upon various subjects, but we have had no petitions from the people upon this subject, except the petition of a meeting of the colored citizens of Muscatine, showing that there is no movement of the people upon this subject, and that there is no desire among the great mass of the people, that negroes shall have the right to vote.

Our census returns show that there are about 270 colored persons in the State, and I do not think that they themselves are particularly anxious upon this subject. It is true, that at this Muscatine meeting, where there was a very few present, this subject was discussed, but the great body of negroes in this State have never yet made a movement upon this subject. Both of the gentlemen who have argued so warmly in favor of submitting this question to the people, have declared that they had no particular partiality for the negro, and although they are willing that the people should vote upon this question, they avow in sackcloth and ashes that they do not like the association of the negroes. It seems to me that these gentlemen are placing themselves in a very singular position here. I do not see the object of their speeches, unless it is to cajole and deceive the people.

Is there any practical purpose to be gained by this course? It is admitted on all hands, and by both the gentlemen who advocate this proposition, that the people will vote it down. No man believes that it can command a respectable vote in the State. And yet we are wasting time in discussing this subject, and creating odium against ourselves, against the constitution, and against the Republican party, upon a question upon which the party has never taken ground, and in favor of which they are not committed. I am a Republican so long as the Republican party is the party of liberty, so long as it opposes the extension of slavery, and so long as it is willing to allow the negro, when he comes here, the rights to hold property and to enjoy it, and the right to his liberty. In all this I am a Republican, but further than this I think that the Republican party have not gone, and further than that I am not willing to go.

The gentleman from Scott [Mr. Ells] very properly remarked that the true reformer never was so far ahead of public opinion as to lose his influence. And yet, in the face of this remark, he and the gentleman from Henry are endeavoring to persuade us to do that which he says no true reformer will ever do.

I assume that upon some of these questions the Republican party are reformers, and are seeking to create a change in the public opinion, and, if I may use the expression, to enlighten public opinion upon this question. And yet the gentleman asks us to do that, which when done will turn against us, I may say, at least, one-half of the Republican party. I say that upon the ground of policy we ought not to do any such thing.

Mr. MARVIN. I do not think it is right that the misapprehension under which the gentleman from Johnson [Mr. Clark] labors should go unnoticed. He says that two gentlemen who have spoken in favor of submitting this proposition to the people, have at the same time said that they would not themselves vote for striking this word "white" from the constitution.

Mr. CLARK, of Johnson. That I understand to be the position of the gentleman from Henry [Mr. Clarke], and the other gentleman from Scott [Mr. Ells].

Mr. MARVIN. The gentleman from Scott [Mr. Ells] said he was himself in favor of striking that word from the Constitution, but he would not vote here to do so.

Mr. CLARKE, of Henry. I thought I had expressed myself so distinctly that no gentleman could misunderstand me. Yet the gentleman from Johnson, [Mr. Clarke,] gets up here and misrepresents me. I said I was in favor of making no distinction in any place, in regard to the rights of men as men. I did not say I would not vote for the proposition to strike out the word "white," if I had an opportunity. I said, and I say it again, that I shall vote for that proposition if I get a chance to do so. There are many voters in my county who desire me to use my influence to have that proposition submitted to them; and Democrats have advised with me to have it done. And, sir, I had supposed, from what had been said to me upon all sides, that there could not have been two opinions in this body concerning this matter, but that all here were willing to have the question so disposed of.

And, lest I should be further misunderstood in regard to this matter, I will state more fully my ideas and opinions in the premises. Take up your Constitution and begin with the bill of rights, and what do you find there? The very first section reads in this way:

"All men are by nature free and independent, and have certain unalienable rights; among which are those of enjoying and defending life

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and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness."

Suppose that these individuals who are so terribly afraid that "colored" men will get some rights, and obtain some benefits, under this Constitution, should propose to insert before the word "men," in the first line of this section, the word "white"? Sir, we have been dared to strike out the word "white." Now I dare gentlemen to insert the word in the section I have just quoted. And suppose, sir, that such was the proposition; would not the gentleman from Johnson, [Mr. Clarke,] who was once, I believe, a candidate for the office of elector, for that famously anti-slavery party, known as the "third party"—would he not get up here and defend the broad principles of human rights, as set forth in that section, and yet claim that he should not be "niggerized" for so doing? And yet, when I advocate the application of these same principles of the bill of rights to other articles of the Constitution, this consistent gentleman can get up here and charge me, with just as much of candor and fairness with, being a "niggerizer," and "niggerizing" this Convention!

I say that I wish that every man here was "not almost, but altogether such as I am," upon this and similar subjects, except, perhaps, county bonds! I go, then, merely for the carrying out of those principles, throughout the Constitution, that we set out with in the bill of rights.

And, sir, we find in the very next section of the bill of rights that, "all political power is inherent in the people. Government is instituted for the protection, security and benefit of the people," &c. Why do not gentlemen, who are so thin-skinned about negroes, get up here and move that this section be amended, so as to read, "all political power is inherent in white people"? That would be just as sensible as their objections to this resolution. Again, gentlemen say they are opposed to having negroes eligible to office. Sir, I am willing to leave the people to take care of this matter; and they will do it. Did any gentleman here ever know of a negro being elected to any office in the United States? Yet this is one of the supremest scare-crows and hobgoblins relied upon by the gentleman to frighten us with! If you can find an instance where, against all the prejudices of our race, and the contempt and obloquy bestowed upon a despised caste, a black man can be elected, even to the office of constable, in any district in this country, then I will show you a wonder among the nations. The negro man who could get elected to any office must have the supremest wisdom and qualities of mind; he must needs be a very Christ in ebony. Do the people need anything to prevent such a casualty, except their own prejudices and their detestation of the black race? Do we, the boasted Anglo-Saxon race, "independent, free and sovereign," need any restriction in our Constitution to protect us from this poor persecuted race? That is what it amounts to.

No, no, gentlemen; as I told you before, so I tell you now, the time will come when these principles will triumph. Those who now laugh at me, and mock at me for being so sanguine in this matter, remind me of a scene I witnessed some two years and over since, in this very hall. It was the first time I was ever here. I came as a delegate from Henry county, to attend a Whig State convention. What did I find here? A platform all cut and dried, sent on here right hot from the kiln in Washington, endorsing the whole of the compromises of 1850, swallowing the fugitive slave law and all. I could not go that figure. I had always acted with the whig party, had never been considered an abolitionist, had never been the candidate of the third party for any office, not even that of Van Buren elector. I had not been a simon-pure abolitionist enough for that. I came here as a whig, and I said to the assemblage: gentlemen this may all be very well for whigs who wish to be nothing else, but I tell you, if you adopt these resolutions, you will find, before you get home, that the people will be thundering in your ears their disapprobation of this thing. There is that going on in Washington, that will present a new issue to the people, and if you do not regard it the people will disregard you. The great question is going to be, not tariffs, not banks, not matters of internal improvements, not a strict construction of the constitution, but the great battle to be fought is to be, between freedom and slavery, and you may as well open your eyes to the fact at once. Pass these resolutions, and establish your platform upon such principles and issues, and I tell you the people will knock down your candidates as fast as you can set them up. That was the position I took here. And what did gentlemen do? They sneered at me, and called me the abolitionist from Henry county. They seemed to have the idea that Henry county was the hot-bed of abolitionism, and that no man could come from there without being an abolitionist to the manor born.

I repudiated the compromises of 1850 and the fugitive slave law, and the resolution endorsing them, and drew up and offered an anti-Nebraska resolution in its place. That anti-Nebraska resolution was adopted and the other rejected. And gentlemen got up and took their hats and went out of this chamber, denouncing the convention as a convention of abolitionists, and myself as a fanatic. But, let me ask, did not the governor, and the other State officers we nominated, get elected? Did we not at that time achieve the first victory over that party that had been in power in this State from its first organization?

And I tell you gentlemen, the principles I am now advocating, will be, must be, shall be, victorious. They are right, they are just, they are true. And the time will come, it must come, it shall come, when even you, Mr. Chairman, [Mr. Gillaspy,] will be in favor of them. I must at least pay this compliment to your hon-

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esty which I have endorsed so many times in this body. Every honest man must support these principles, at first or at last. I tell you, we live in an age and in a community when the people think and act for themselves. Their hearts are in the right place, and as soon as they get the idea in their minds that a thing is right they go for it.

While we are sitting here in this convention talking about this matter, over in Illinois the committees of her legislature are making reports trying to get rid of some of these same restrictions, that have been thrown around the people there by their self-constituted guardians. It is an eye-sore, a cancer, a foreign substance stuck into the body of republican principles, and wherever it has stuck it will fester and work until the body politic gets rid of it. And in Missouri, on the other side, they are struggling to get rid of slavery, endeavoring to throw off what they see, and know and feel is an evil. I tell you the public mind is alive and acting in this matter, and it is nothing but true republican democracy that is working out its heaven-directed mission. You may talk to men as much as you please about the great wrongs done to this persecuted race; you may appeal to their sympathies as much as you please. You may thus agitate and excite, but the effect is but ephemeral.

But once imbue the minds of the masses with the true principles of republican democracy, and the work is done. Why, sir, I have almost less confidence in the success of those who attempt to spread the true principles of christianity, than I have in the final universal prevalence of the true principles of democracy and Republicanism. As I said the other day, those principles are based on christianity, and when they prevail, all these things, now called, through timidity and prejudice, "necessary evils" must, and will, and shall be done away. I can abide my time, for I have entire confidence in the result.

And I will say here to those republican gentlemen, who are now so incredulous, and have no confidence in the people, you will yet take me by the hand, as one of the gentlemen did who went out from our convention. He took me by the hand and said—"Sir, I thought you was wrong, but I was wrong myself; and I thank God I was wrong!"

It is only a lack of confidence that make men here take the position they do upon this matter.

I repeat, gentlemen have *dared* me to do certain things, and I dare them to apply their principles to this constitution; to carry out to their full extent the principles they have professed upon this floor. To what extent would they be obliged to go to do that? They would have to stick in the word "white," everywhere there is a declaration of right or an affirmance of principle in order to nullify its universal application. For instance, take the ground asserted here as a chief reason for inserting the word "white," in the article on suffrage, that they do not want to "encourage negroes to come into this State." Then they must want to discourage them from coming here. They must make a distinction in every case between the whites and the blacks. If they carry out the doctrine fully they will not allow the negro any of the rights contained in this constitution. Let us suppose the gentlemen attempt the necessary amendments to carry out their principles.

We find here, "Every person may speak, write, and publish his sentiments on every subject, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press." Oh, say they, if a negro comes in here, he may be saucy, and speak to a white man without taking his hat off, as if they were "equals," and that will never do at all; we must save ourselves from insult from these negroes, and thereupon we will say that "every white person may speak, write," &c.; and when they come to the declaration that "The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches, shall not be violated," they will say, Oh, that must not be so, for it will be saying to every negro, If you come to the State of Iowa, you will be protected in your person and property, because, as the gentleman from Des Moines [Mr. Hall], says, "they are all *people*, all of them, knaves and fools, negroes and Indians." It will never answer to encourage the negro to come in here. And the gentleman from Des Moines would get up and read a great long extract from some speech or report made by him years ago, to show to the people of this State that if they let this provision of the constitution stand as it is, negroes will come in here and breed to such an extent that bye and bye they will be worse than the frogs of Egypt, getting not only into their ovens and their kneading troughs, but into their ballot boxes and the governmental places of the State. Therefore, we must not say that "the right of the people to be secure in their persons," &c., "shall not be violated," but that the right of "*white* people shall be secure," &c. The property of the blacks must be left open to pillage, and their persons to outrage, for fear that otherwise they may be "encouraged" to come into the State.

And they must also say that "the right of trial by jury shall remain inviolate—*except to the black man.*" And also that "in all criminal prosecutions, the accused, *if a white person*, shall have a right to a speedy trial by an impartial jury." And they must also, in order that no fugitive slave may be encouraged to come over here from Missouri, where they have such good, kind, Christian masters, for fear they may have the right of trial by jury if charged with the stealing of themselves and their clothes (which of course would be the ruin of the State), they must say that "no *white* person shall be held to answer for a criminal offence, unless on presentment or indictment by a grand jury." And they must also say that "no white person shall, after

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acquittal, be tried for the same offence." And so we must go through with every section of the bill of rights, and through the whole constitution, and insert this word "white" wherever the word "people" or "person" occurs! As I said before, you must always bear in mind that new version of the declaration, made by the greatest of American statesmen, and when you say "equal and exact justice to all men," put in "*except negroes.*"

Now I ask, would not every man of us, of whatever party, breathe freer and easier, and feel somewhat as if he were acting himself out more fully and nobly, resting upon a basis from which no one could push him, occupying a position that was impregnable, that he could depend upon, and could trust for those who might come after him to the latest generation of men, if he could only just go the whole principle of political equality without any exception; and saying here in the beginning "all men, without exception, are free and equal, and have certain unalienable rights." Go on and base this constitution upon that principle, having no distinctions anywhere throughout all its provisions, leaving the people to take care of themselves in all these minor regulations and particular applications. And if they should see fit, through prejudice or passion, or from any other motive, to keep this class of men or that class of men from filling their offices, they could do so. And if, on the other hand, they should be satisfied that a person from any class, was competent and qualified to discharge their business, and the duties of any of the offices in their gift, they could select him for it. Cannot gentlemen trust the people so far? I think you can trust them to the full extent of allowing them at least to vote for whomsoever they will.

I hope gentlemen understand me now. I go for this principle to its fullest extent. I would incorporate it into our constitution from beginning to end. I would have our constitution as clean as the constitution of Massachusetts, without the word "white" occurring in it at all. If the proposition is submitted to me, as one of the people, I will certainly vote to strike the word "white" out of the constitution altogether. There can, therefore, be no occasion for gentlemen to misunderstand my position hereafter. But I say further, that having good reason to believe that a majority of the people of this State would not vote for this constitution with the word "white" stricken out, I but act the part of wisdom, and at the same time am making no sacrifice of principle, when I say that I would not submit this constitution to the people with that word stricken out of it. I think it would be an act of madness, an act of folly to do so.

And again; the great reason, and the reason the gentleman from Johnson [Mr. Clarke,] has not touched upon at all, and which no gentleman here has attempted to gainsay, the great reason why we should submit this matter to the people, is because at least a very respectable minority request it of us. A large number of the people of this State would be deprived, on account of conscientious scruples, from voting for this constitution, unless they are permitted to vote upon a side question of this nature. And I appeal to the magnanimity of gentlemen here to allow these people to have the opportunity and privilege of thus voting. You have heard the appeal of the gentleman from Scott [Mr. Ells,] corroborating what I have said here, and you ought to listen to him. He says there are a number of Scotch Covenanters in his district, who appealed to him to try and have such a constitution made as they could vote for. And they could not do so for this constitution, unless they have the opportunity of voting upon this side question. Gentlemen may smile at this, and think it a singular inconsistency. But is any gentleman here authorized to sit in judgment upon the conscience of any other man? And if any man conscientiously thinks that he could not vote for this constitution as it is, but he can vote for it if he can only have a chance to vote for such an alteration of it as he desires upon a side issue, shall any gentleman here say that because that is not a consistent request, according to his ideas, he will vote against this resolution? No matter whether you consider a Quaker consistent or not; you respect his scruples. No matter whether or not you think it foolish and childish for a man to refuse to put his hand upon the Holy Scriptures in taking an oath, still you respect his conscientious scruples. Why not then respect the scruples of men in regard to this matter?

Let not your own bigotry and prejuice lead you to disregard the conscientious scruples of those who demand this side question as a condition to their voting for the constitution.

I am a Republican, and attached to the Republican party, so far as it is based upon principles, and will carry them out. But as a mere conglomeration of different elements making a "party;" as a mere machine to put certain individuals in the judiciary, or any other office in the State, I am not attached to that party, and am not a Republican in that sense. I care not one fig for any party as a "party," after it departs from correct principles, for that moment it departs from me. I am for the Republican principle, and will stand by it while it stands, and I stand. I am not afraid of having this question go out to the people on account of any effect it may have upon the "Republican party." If the gentleman from Johnson [Mr. Clarke,] is correct, when he says that this question will prove disastrous to the Republican party, how many Democrats do you suppose you would find here voting against this proposition? Why, sir, if they thought this would prove a brand of discord among the members of the Republican party, you would find every Democrat upon this floor in favor of it. But they have their senses about them, these Democrats. They do not believe that any political advantage against the Republicans is to be gained through this thing. They know it will go to the people, and they

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will quietly vote upon it, and no capital can be made out of it. Sir, if I thought the Republican party could be shaken to pieces by such a resolution as this, so fair upon its face, so correct in Republican principles, I would say, "let it slide," it is not worth the preserving.

But I have more confidence in the solidity, firmness and perseverance of the true Republican party. There may be men who have attached themselves to that party, who are not imbued with its principles, and who may be shaken off with every little motion. From the speeches of the gentleman from Johnson I should presume there were. But they are the men who go backwards and forwards in view of some emolument, honor or position. But, sir, the Republican party, founded as I would have it, upon the eternal principles of liberty and equality, must stand, and will stand, in spite of all these little machinations, which have been attempted in this convention, all this petty struggling for political effect, all this resorting to chicanery and intrigue, in order to accumulate some political capital. These little questions, these minor objects, these insignificant finessings, will have no more effect upon that party than does the buzzing of a fly upon an elephant. They cannot affect it; they cannot disturb it. I beg Republican gentlemen to borrow no needless alarm. I have more confidence in it than that. I am not afraid of any action that has been had in this body. Much less am I afraid of sending down to the people a resolution saying to them, those of you who wish to vote for striking the word "white" from the constitution can do so; and those who wish to retain that word can vote to do so; and as you vote, so shall the constitution stand.

Mr. CLARKE, of Johnson. I have but a single word to say in reply to the gentleman from Henry, [Mr. Clarke.] He says that he has never been the candidate of the third party. That is true. In the first place the third party in this State have been in the habit of nominating pretty good men. In the second place, when I was nominated, it was not a very popular party. And I think we can account for the gentleman's new zeal by the old adage, that "new converts are always the most zealous."

Mr. GOWER. This question was agitated in my county before my election. Those connected with the democratic press asked me what course I should pursue as regards negro suffrage. I told them that I should not vote here in favor of extending the right of suffrage to that class of our population. They declared, however, until after the election, that I would do so. I was asked about it several times. I always said that though I was myself willing to grant them the right of suffrage, I should, out of policy, vote against it here.

The question now presented to me is—will I give the people the opportunity to give the negro the elective franchise? That I am willing to do, and therefore I shall vote for this resolution.

Mr. PETERS. I think it would be an act of discourtesy towards the gentleman from Scott, (Mr. Ells) if no one should proffer him the thanks of those he styles the opposition,—the democratic party—for the invitation he tendered them to give their opinions upon this question, and then continuing to occupy the floor himself.

I have reasons why I shall vote against this resolution to submit this question to the people. And I derive them from the arguments used by gentlemen upon the other side. The whole thing amounts simply to this; they tell us that the principle embodied in the resolution is right, that it is one of those eternal truths that effect the interests of mankind, and that it is a trait of their party to do the right though the heavens fall. Now if this thing is right, and is right in every respect, why not incorporate this principle into the constitution? They have the majority upon this floor, the numerical strength; why not exercise it? But they tell us in the same breath, that there is no probability of there being more than a small minority of the people of this State in favor of it. Then why do they ask to have this question submitted to the people for them to vote upon it? Is it simply that they may know just how many abolition votes there are in the State of Iowa? I would propose an easier way for them to do that. Let those who are appointed to take the census of the State, be instructed to add another clause in their lists, and ask every man his political sentiments upon this question.

I see no necessity of putting the people of this State to the trouble of printing or writing the amount of tickets necessary for the settlement of this question, when the most earnest advocate of the proposition here says that there is no possibility of its being adopted. And for this and other reasons, I shall vote against it.

Mr. EDWARDS. Before this question is finally disposed of, I desire to submit a few remarks. I know this is a fruitful topic of debate, especially in committee of the whole; and I shall avail myself of the occasion, by the indulgence of the committee, to take that latitude which the committee of the whole affords upon this subject. The gentleman from Henry, (Mr. Clarke) in his remarks upon the proposition before the committee, referred to a proposition that he introduced some days since, to allow negroes the right to testify in our courts of justice. I submitted, at the time, some remarks upon that proposition. I regarded it as inexpedient to incorporate that provision in the constitution, for the simple reason that the legislature has already removed the restriction that formerly existed, and it was useless and unnecessary to clog the constitution with any side issues of the kind.

But I came to the conclusion that if it was necessary, in order to secure these rights, to place such a provision in the constitution, I would vote for it. I came to the conclusion long since that I would be willing for the black man to submit his testimony to a jury of this state, es-

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pecially when it was to be taken only so far as it was supported by its creditability. I had heard of a case in one of the slave states, where a man had been convicted and sentenced to the penitentiary for twenty years, upon the testimony of a horse.*

Now, I would ask, why should not a man, with the image of his maker stamped upon him, and with a soul to answer to the court above, be allowed to give testimony as well as a horse?

I am glad that I have an opportunity here of speaking upon this slavery question. Born in a slave state, and educated with all the prejudices of a slaveholder, I have been contending for twenty years with the institution of slavery. It was slavery that drove me from my native state. Then can it be expected that I should stand up here and become its defender? I left the state that gave me birth, though her climate, her soil, her productious, her scenery are still dearer to my memory than any land in which I have since wandered. It was slavery that drove me away from her.

If there is any question to which I have given a careful and candid consideration for the last twenty years of my life, it is this complex question of slavery. I know that it is a vast and complicated subject. There is connected with the institution, as it exists in this our land of freedom, there is connected with the relation subsisting between master and slave, a problem that time alone can solve. There are many questions of detail connected with this subject that will be and must be presented to the American people in the different states, and upon the different occasions when they are called upon to act upon this great and momentous question; and as regards those details, there will ever be differences between individuals, and while they may be called anti-slavery men, these differences will exist, though there will be a common bond uniting them all in opposition to slavery, though they may seek their object in different directions and by different means.

I am an enemy to slavery, because I believe it to be inconsistent and incompatible with the genius and spirit of our free institutions. I believe that it is a crime against nature and against heaven, and that its existence in this country constitutes a foul blot upon its escutcheon. I do hope and pray, as it was the earnest hope and wish of Washington, Jefferson, and all the other illustrious patriots of the Revolution, that the day may come when those who possess the right and ability to deal with the subject, will act with manliness and do something for that unfortunate race of beings. It hangs over the country like a black cloud; where it exists it is a foul cancer upon the body politic, eating out its very vitals.

And yet we find men here, breathing the free air, and treading the broad prairies of the State of Iowa, who are the apologists of this greatest of all curses—human slavery. If men cannot agree as to the details of what is to be done for the purpose of removing this great curse from our land, there is one point that all free men could agree upon; and that is, that they would, upon no occasion, public or private, give their voice and influence to acknowledge and uphold that cursed institution. Slavery withers and blights all that it touches, and acts like a mildew upon the land wherever it exists. Compare my own native State, Kentucky, with her neighbors, Ohio, Indiana, and her sister States. While the one has grown and increased in wealth and population to three-fold that of Kentucky, though thirty years her junior, slavery has proved a curse to Kentucky, and a barrier to improvement.

I am referring to this subject in a political point of view. I would ask if it is right that this free government of ours should be shaken from centre to circumference for years, just on account of this institution of slavery? Is it right that three and a half millions of human beings should be held in bondage by three hundred and seventy-five thousand persons, in a country containing twenty-five millions of freemen, in order to gratify the small slave oligarchy of the South? I say, no. If this government is ever destroyed, and the liberty of its people blotted out, it will be in consequence of this institution of slavery; because it is wrong in principle, and inconsistent with the principles of civil liberty of which we boast so much.

It was the immortal Jefferson who, when spoken to upon this subject of American slavery, and contrasting the great struggle we had made for the purpose of throwing off the British yoke of oppression, and remembering that it was God who directed our forces, asked if it could be expected that he would continue his mercies and kind care over us while we should continue to hold in slavery another portion of the human family. "No," said Jefferson, "I tremble for the fate of my country when I think that God is just, and his justice will not sleep forever.

There is no subject that can be presented to the American mind fraught with as deep an interest as this question of slavery. And it has

* The case above alluded to was reported in the Memphis (Tennessee) papers, a few years since. It was upon the trial of a man arraigned on an indictment for murder. The murdered man was found on or near the line of two counties or districts. During the trial the prosecution failed to clearly establish the venue in the case, though but few doubted the guilt of the prisoner. The counsel in behalf of the State then offered in evidence an incident of the horse of the murdered man. The brother of the murdered man while on his way to the trial, riding his brother's horse, in company with some others, when he had approached near where the murdered man was found, noticed that the horse became very much agitated. The rider gave him the reins, and he started off suddenly into the woods for a short distance, until he reached a tree near a ravine, not far from where the body of the murdered man was found, mutilated by the hogs. Here the horse commenced pawing, and gave evidence of the memory of a struggle. The horse had been found, saddled and bridled, on the day of the murder, very much frightened. The court permitted the account of the conduct of the horse to be submitted to the jury, leaving them to give full credit to the natural instincts of the animal. This incident clearly established the venue in the minds of the jury, and they brought in a verdict of guilty, and the accused is now paying the penalty of his crime in the penitentiary at Nashville.

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puzzled, and will continue to puzzle, the wisest minds to tell what we are to do with it. I regard the constitutional rights of the slaveholder as much as will any other man in the country. I would be the last to take his rights from him. I would even wield my arms in his defense against any fanatic, or any man, who would, in violation of the Constitution and the laws of the country, interfere with the rights of the master of the slave, as they now exist in States, under the right of State sovereignty.

We have no right to interfere with it. But we can raise our voice against it on every occasion. We can refuse, here in the free State of Iowa, to bolster it up by becoming its apologists. And so far as we have the power, and the constitutional and legal right, so far should we go against it. And when the south attempts to force this obnoxious institution upon free and northern soil, we, who are patriots and who love liberty and ground consecrated to liberty, can say to this slave oligarchy as the Maker of the universe said to the waves—thus far shalt thou go and no farther. We should meet it, pen it in, circumscribe this evil, which was regarded by the fathers of the revolution, and all the great men of the time, as a great moral and political evil. The true policy is to hem it in, and it will work its own cure.

Why should I be an advocate of slavery? I, who have heard the sound of woe and anguish coming up from the house of bondage. I, who have seen men and women, with the image of God imprinted upon them, taken to the block of the auctioneer without their consent, and sold like cattle in the shambles to the highest bidder, to pay the debts of their debauched masters. Parents and children, brothers and sisters, husbands and wives separated forever, and all the affections and feelings that can fill a white man's breast outraged and violated.

You know, Mr. Chairman, [Mr. Gillaspy,] that in the State where you and I were raised, those who had property in men, women and children, had regard to the circumstances that surrounded them, and dealt kindly by them. There are humane and benevolent persons who are slaveholders; they treat their slaves kindly, clothe them well, and do all that can be conducive to their wealth and comfort. There is even a degree of affection existing between the families of the master and the slave, in a majority of instances, that is worthy of imitation among us. I am free to confess all that. But if a great wrong is committed by one out of ten, or even one out of a hundred, then that proves the whole system wrong.

As I have said before, slavery is a foul political curse upon the institutions of our country; it is a curse upon the soil of the country, and worse than that, it is a curse upon the poor, free, laboring white man. I have known many cases of honest, hard-working, plodding white men, who have come to my native city for the purpose of making a support for themselves and families, and they have been driven away, in consequence of the degradation attached to labor as the result of this system of slavery. That is the reason that Virginia is becoming depopulated, until she has now become merely the slave-breeding State of this Union.

I do not know whether it would be an advantage or not to the negro to confer upon him the right of suffrage. I have hoped, and I hope yet the day will come when the fetters shall be stricken from all this unfortunate race. Aye, and the day will come, as sure as there is a just God in Heaven.

"Truth crushed to earth shall rise again;
The eternal years of God are hers;
But Error, wounded, writhes with pain,
And dies among his worshippers."

And the unfortunate colored man, who was stolen from his native land, and is now suffering under the yoke of oppression and bondage, will some day receive justice, and when that justice is meted out to him, Heaven grant that this nation does not suffer.

And when this question has been discussed here, time and time again, in the different phases in which it has been presented, there have been those here who have shown a disposition to meet it by sneers and insinuations, and they ask if we desire to elevate the negro above the white man. No, sir; we desire no such thing, and if we desired to do so we could not. There are castes in this community, as there are in all communities, and they will always exist. These things must and will work out their own solution.

And as to the danger to be apprehended from amalgamation, let me tell you there is not one-half the amalgamation in the free states that there is in the slave states, and you all know it. Go into the southern states and you will find in their rich mansions and palaces these mixed races, about whom gentlemen here seem so fearful, and in reference to whom they turn up their noses in scorn; they are there kept as the body servants, the confidential servants of the delicate and refined ladies and men of the south. I have played with them; I worked with them until I was seventeen or eighteen years of age. It was the custom where I was born and reared. No, sir; as to amalgamation, I tell you if you will take the same proportion of the colored population in the free states and slave states, you will find ten to one mulattoes in the south. And the number will increase, and the proportion of the white blood in the veins of those mixed races will continue to increase until they become as white as you or I.

And yet gentlemen here raise up their pretentious noses, and cry out about our desiring to place the negro on an equality with, or above the white man. Let me tell those gentlemen that some men in this convention voted for a Vice President of the United States—Col. Dick Johnson—who had a negro woman for his wife, a negro woman as black as the ace of spades.

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There was no disgrace in that, then; oh no; it was all right and proper. But if a negro man comes in this temple of justice and liberty, you will directly hear these men cry out—there goes a brother of the gentleman from Henry. [Laughter.]

But let us treat this subject seriously, for it is fraught with considerations which deserve our most serious attention. And let me tell those gentlemen who seek to drive us off by their sneers, that they will never drive me from the path of duty, while God enlightens my conscience, and I know what is my duty to my fellow-creatures. And whenever the people who possess the power, shall discover some way to get rid of this great curse, and shall call upon me, as an humble individual, to assist them, I shall be ready to give them my influence, my purse, and all in my power to aid in removing this stain from the fame and character of my country. I care not, if the proposition is to devote every acre of the public land in the United States to pay for these slaves—who are now ground in the dust by the iron heel of their tyrannical masters—and remove them to the land of their fathers; I, for one, will be willing to vote for it.

I do not know whether or not it would be for the best interests of the negro, that he should be entitled to the right of suffrage. There is a prejudice in the community against that unfortunate race, from the fact that their brethren have been held in bondage, and scourged, and driven by the lash.

Let me call the attention of this committee to another point in connection with this subject.

A few years since we annexed to this country a large extent of territory acquired from Mexico. By the laws of Mexico, every citizen there had the right of suffrage; it was a right that belonged to every one who was a citizen under the laws of Mexico. And no one will deny but what the treaty of annexation continued the laws then prevailing in Mexico, in full force over this acquired territory. Now there were, and are yet, a large population of mixed races residing in that territory—half-breeds of African and Spanish blood, &c., and under the republic of Mexico they enjoyed the same privileges which the pure Castilian stock enjoyed. And under those Mexican laws which were in force after the annexation, the coal black negro had as much right to represent the people of those territories in Congress and in the various branches of the territorial legislature, as the purest Castilian stock.

But gentlemen say that is a different question. I say it is not, but that the same principle is involved in the one as in the other. It is true that different circumstances will produce different results. The result in that case was brought about by a stroke of the pen, which said that the laws of the old State should not be changed, and thus they were left on an equality, all enjoying the same privileges. Here, you and I have been raised differently, and educated with all the prejudices resulting from the degraded condition of that race. And we say they shall not enjoy rights with us here, except just so far and no farther. Now that may be all right; I will not attempt to controvert that point.

But I say that all the arguments in favor of slavery are fallacious, and will fall to the ground. I say the institution, from its inception to the present stage of its existence, all through its progress, is wrong, before God and high Heaven, and opposed to all the principles embodied in the American form of government and our theory of freedom.

I have spoken here of apologists of slavery. Gentlemen say, who are those who stand up here and defend slavery? Is there any one here who advocates slavery? I tell gentlemen, that if they do not advocate slavery with their lips, in so many and direct terms, they exert an influence and power in regard to it that is the very backbone of the institution in the South. What! is the democratic party in favor of slavery? Let me tell them that during the last Presidential canvas, there were scattered broadcast throughout the whole length and breadth of this State speeches delivered by Stephens, Toombs and others, of the Southern wing of the democratic party. In my own town more than one hundred of these speeches came there in one package. Who received and circulated those speeches of Stephens, and of Toombs, the Ajax in Congress of the Southern and pro-slavery wing of the democracy? The Northern democracy received and circulated them. What did those speeches contain? They contained the declaration that slavery was a divine institution, that it came from God, that it was right for one portion of the human race to hold another portion in bondage; that slavery was a beneficent institution, that it was a great blessing and should be extended all over the land, so that wherever the flag of our country should wave, there the white man should be protected in his property in his fellow-man.

And there were democrats in my section of the State who took the ground that slavery was right; that it was a great moral and political blessing, and that it ought to be extended through the Union. I must at least give them credit for their candor, however I differ with them in their sentiments and principles.

Now let us examine this subject farther. I hold in my hand a copy of the New York Day Book, a paper that was gotten up by the democratic party to counteract the influence of the New York Tribune. The democratic party have been trying to extend the circulation of this paper all through the free States—as it has now a circulation in the Southern States. And in almost every town and village you will find some Democrat who takes this Day Book, regarding it as the organ of his party in the North.

The great State of South Carolina, the land of palms and oranges, the home of all that is chivalric and brave, the State where no man can

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vote unless he possesses a property qualification of a thousand or fifteen hundred dollars—that State has taken the democratic party under its wing. And its recent Governor—Mr. Adams—in his message to the last general Assembly of that State, came out with the bold and startling avowal of the expediency of re-opening the African slave trade.

Now let me go back a little to vindicate the truth of history. I here assert—and I defy any, and every Democrat upon this floor to contradict successfully my position—that the Democratic party of every free State in this Union—with the exception, perhaps, of Iowa, and that only because she was in her swaddling clothes, and could not do so—had endorsed, up to two years ago, either by legislative action, or through party conventions, the broad principle that slavery was a great moral and political evil, and ought not to be extended; that Congress had the power, and ought to restrict its extension into the territories of the United States. Now, however, they have changed their position, the old Democratic doctrine being as diametrically opposed to the southern pro-slavery Democratic doctrine of the present day, as are the poles. Yet gentlemen get up here, and seek by *ad captandum* arguments to mislead the people, and make them see this matter in the light they wish to have it appear.

If any man had said five or ten years ago that the principles of the Democratic party, as expounded by Silas Wright, would have been forsaken, that the Democratic party would have departed from the faith, and sold themselves, bodies and souls, to the oligarchy of the south, the charge would have been met with contumely and scorn, and it would have been indignantly hurled back into the face of the slanderer. But such is the case. And the Democratic party having triumphed, it is proposed now to renew a traffic, which has been declared piracy since 1808. Aye, in the age of civilization and christianity, as it now exists, we find a Democratic Governor of a Democratic State, advocating the revision of the African Slave Trade. In regard to this matter, the following resolution was offered by Mr. Etheridge, of Tennessee, in the House of Representatives in Washington, a few weeks ago:

"*Resolved*, That this House regard all suggestions or propositions of every kind, by whomsoever made, for a revival of the slave trade, as shocking to the moral sentiments of the enlightened portion of mankind, or any act on the part of Congress legalizing or conniving at the legalizing of that horrid and inhuman traffic, would justly subject the United States to the reproach and execration of all civilized and christian people throughout the world."

Against that resolution fifty-nine members voted, every one of them Democrats, except some southern Know Nothings; and of these Democrats, were three from the northern States, Mr. Florence of Pennsylvania, and Mr. Herbert, and Mr. Denver of California. Three men from the free States are found at this day, in the Congress of the United States, voting against a resolution, introduced by a southern man, declaring that this barbarous traffic is against the humanity of the age.

And what does the editor of this Democratic organ say, in commenting upon this resolution. I would ask the attention of gentlemen, while I read from the New York Day Book of December 27th, 1856:

"The above resolution was offered in the House of Representatives, a few days since, by a Mr. Etheridge, a southern man, not with northern, but with British-Abolition principles, and we publish it for the especial benefit of our southern friends, and, at the same time, solemnly ask them how we are to make head against this atrocious crusade against the south, when they themselves not only harbor traitors in their midst, but actually honor them with seats in the national Legislature! The mover of this infamous resolution should have preceded it by a brief preamble, something like this:—That as negroes, except in color, are men like ourselves, with the same natural rights, etc., and the system of southern society, which denies them these rights, is inhuman and villainous, and disgraceful to the age we live in, and as those who create it are as barbarous and criminal as those how supporting and practicing this cruel and atrocious system, therefore it is resolved, etc., etc. Had, we repeat, the mover of this villainous resolution preceded it by such a preamble, he would have expressed the full and complete idea of the Abolitionists, and doubtless his own, for it is, is the nature of things, utterly impossible that any sane mind can look upon the importation of African negroes as villainous, without attaching the same idea to their subjection to white men, or to so-called "slavery."

"Now, what is this thing—this negro importation, or so-called "slave-trade," which the moral and enlightened Mr. Etheridge assumes to be so atrocious and inhuman? To comprehend it—what it is in truth and reality, and not what fools and knaves have represented it, it is, of course, essential to know the facts embraced in it and their true relations to each other. And, first of all, negroes, isolated and left to themselves, always have been and always must be the simplest, grossest, least advanced of all the forms of savageism. Without a *re*-creation, without another brain, without a reconstruction of the mental organism, it is, of course, just as impossible that the negro can be anything else, as it is to see without eyes or hear without ears, or to thrust aside or to change any other law of the Almighty. But these negroes, living an idle, useless, semi-bestial life, generation after generation and age after age, worshiping their obscene gods, and offering on their bloody and smoking altars the bodies of their wives and children, are placed under the care and tutelage of a superior race, and become happy, useful, moral and Christian beings. And if we contrast

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the present condition of the three millions in our midst with that of any other three millions in their native Africa, that now exist or ever have existed, the contrast presented will be acknowledged, even by the Abolitionists, as the greatest known in the history of human kind—that the well being of the former over the condition of the latter is actually beyond the power of language to fully define or express.

"Now, can it be possible, or is it in the nature of things possible, that bringing these negroes here is wrong? Can it be wrong to transform rude and brutal savages into useful and happy Christians? Or can it be right to carry these negroes back to Africa, to transform Christian beings into roaming, semi-bestial savages? "Yes," the "civilized world" say—"yes," say the toadeys and lacqueys of kings and aristocrats—"yes," say the upholders of European oppression—all those who desire to preserve artificial distinctions among those God has made equal—"yes," say the deluded and debauched Abolitionists, and "yes," says moral and humane Mr. Etheridge! But this is only one side of the case, though it is abundantly sufficient to convince any sane man that a stupendous imposture is practiced *somewhere*.

"There are fifty degrees of latitude right in the centre of this continent, with a magnificent cluster of islands nestling, as it were, in the bosom of the continent, endowed by a beneficent Creator with greater fertility than any other portion; and, furthermere, which is the home, the centre of existence, the locale of certain productions absolutely vital to modern civilization, and the growth and production of which are absolutely impossible without negro labor. Of course we cannot stop to show why this is so, but it is sufficient here to say that, in all human experience, white men have never grown the products of the tropics. Without negro labor the modern world would be, on this continent at least, without cotton, without sugar, without coffee; and, without these products, where would be American commerce, American civilization, American power, in truth, where would be the American Republic? If we suppose a moment that negroes had not been brought from Africa, where would be the great states of the South, the magnificent south-west, Virginia, the Carolinas, aye, indeed, lackadaisical Mr. Etheridge, where would be your own Tennessee, that you thus insult, had there not been negroes to go ahead amid the broiling sun and deadly malaria and prepare the way for the differently and more delicately organized Caucasian? Where would have been the Jeffersons, the Masons, the Madisons, the Jacksons, the men of Democartic ideas, who, themselves the representatives of labor, and united by the common interests of production with the toiling millions of the North, have fought their battle against British ideas and northern federalism?

"But to return to the more salient points: It is absolutely certain that the great staples, cotton sugar, molasses, coffee, &c., are utterly impossible on this continent without negro labor, and these annihilated, stricken out of being by the abolition of "slavery," and the most genial and fertile portion of this continent transformed into a desert, given over to African barbarism, or if the negroes had never been brought here in the first instance, then it is, or it would be, utterly impossible that this Republic, or indeed anything even resembling it, could have an existence. We have said without a re-creation, without another brain, it is physically and morally impossible that the negro can be anything but a gross and simple savage. Certainly God has not designed him for an idle and useless existence. Even the most inferior and simple beings in the animal world have their uses, if we did but know them, and it is not only irrational but absurd to suppose that the negro was designed to remain an isolated and useless savage.—And it is equally irrational to suppose that the Creator would have endowed the tropical world with its exuberant fertility only to remain a desert. On the contrary, having adapted the negro to the tropics—having ordained that his labor alone shall call forth their wonderful and exuberant fertility, and having, furthermore, adapted the negro to the control and guidance of the white man, with powers of imitation that almost supply the place of his own absence of mental capability, does it not follow, indeed, is it not, or was it not an imperative duty that the superior race should thus apply the blessings of Providence, should thus bring these negroes from Africa and place them in relation with these regions and these productions so essential to human welfare and vital to human progress?

"Thus, when honestly looking at the *facts* involved in this matter—the transformation of millions of rude, useless, semi-beastial savages into useful and happy Christians—the cultivation of vast and fertile regions otherwise, of necessity, barren deserts—the growth and production of staples that constitute the base of modern commerce and absolutely essential to modern civilization, and, greatest of all, the development of democratic ideas, springing from that *peculiar* social condition termed "slavery," and the existence of a class called slaveholders, the Jeffersons and Jacksons, the men unrivalled and unapproached in true statesmanship, who, bound together by the common interests of production, have defended the rights of labor for the toiling millions, and made a democratic system an actual fact—in view of these things, these transcendant results—these beneficent consequences—this mighty good—the African "slave trade,' and "American slavery" constitute the happiest conjuncture of circumstances that has ever occurred in human affairs. *Nor are these benificent consequences, or any of them, the result of these general laws of Providence. which, overruling the ignorance or wickedness of mortals, bring good out of evil. On the contrary, it is a demonstrable truth that bringing negroes from Africa was right and the restriction was wrong.* It is now admitted by the Abolitionists that they have not pre-

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vented the importation of a single African, while their efforts to do so have destroyed more than a million of these, in their connection, unhappy beings. The happiness and well being of mankind demanded a certain amount of sugar, coffee, &c., and if the labor of fifty thousand negroes was necessary to furnish these products, eighty thousand were shipped on the African coast so as to cover the thirty thousand *killed* by the interference of the "friends of humanity."

"Finally, when society itself was destroyed in the West Indies, the slave trade was, of course, broken up except in Cuba, where it goes on, and will go on until Spain, forced by England and France, fulfills her threats and *destroys society in that island.* For sixty years this cause and effect have been uniform and universal. When the trade was legal the mortality was eleven per cent; now, with all the improvements in modern shipping and commerce, it is forty per cent; thus, when left alone, negroes lived, when interfered with they died—the former was wrong and the latter right, therefore it is moral and virtuous to kill negroes. Such is the reasoning of the perverse and deluded creatures who, like this Mr. Etheridge, blindly and stupidly, and indeed wickedly, shut their eyes to the *facts*, and groveling in the dust at the feet of the flunkies and lacqueys of European "lords" and "ladies" have no opinion of their own, but take on trust those of our deadly enemies.

"In conclusion, it is hardly necessary to say that we do not advocate the re-opening of the so-called "slave trade." *The question is, or should be wholly a question of expediency*, and while it has been of immeasurable benefit to the world and the existing form of prohibition is utterly disgraceful to the American intellect, we cannot conceive of any possible condition or circumstances that would warrant or demand its renewal."

Now I ask gentlemen where they associated such men as these, when all their influence is thrown upon that side of the scale, how can they get up here and say they are no more in favor of slavery than we are? I ask if that is possible in the nature of the case? It is the moral influence that is brought to bear in consequence of the support given by northern democrats, that has led southern slaveholders to take such firm ground in regard to their peculiar institution.

Now I hold that men can cease to be apologists of slavery, and still suffer it to exist where it is shielded by the constitution and the laws of the sovereign States that recognize it; we are not required to apologize for it. And if men are found in company with slavery propagandists, and vote to sustain them in their arrogant demands, are they not aiders and abettors of the system of slavery? They cannot escape that conclusion.

This question of slavery is an important, a momentous question. And, however much we may endeavor to stifle it and throw it off, it will be found, as we glide down the stream of time, raising its horrid front, and ever muddying the waters of politics until it is finally disposed of. Slavery is wrong, and all the principles of truth and justice are upon the opposite side. And the day is coming, and not far distant, when the American people must come out and take broad ground upon this question.

Whether it is expedient to give the unfortunate negro who is in our midst, all the privileges we enjoy, I am not prepared to say. I hope and trust that some means will be devised to ameliorate the condition of this unfortunate class of people. For myself, I am willing to stand upon the ground that the noble Henry Clay occupied—never to use my influence for the extension of slavery.

Mr. CLARKE, of Johnson, moved that the committee rise, report progress, and ask leave to sit again.

The question being taken, the motion was agreed to.

In Convention.

The PRESIDENT having resumed the Chair,

The CHAIRMAN reported that the committee of the whole had had under consideration the subject referred to them, had made some progress therein, and had instructed him to ask leave to sit again.

The report of the committee of the whole was received, and leave granted accordingly.

Mr. GIBSON. In order to expedite business, as there are no doubt a number of gentlemen here who would like to give their views upon this subject, I will move that the convention now take a recess until to-night at 7 o'clock.

The question being taken, upon a division, it was agreed to, ayes 14, noes 13.

The convention accordingly took a recess until 7 o'clock, P. M.

NIGHT SESSION.

The Convention re-assembled at 7 P. M., and was called to order by the President.

Mr. TRAER moved a call of the House.

The roll being called the following absentees were reported:

Messrs. Clarke of Henry, Day, Emerson, Harris, Hollingsworth, Johnston, Palmer, Price, Todhunter and Winchester.

On motion of Mr. PARVIN,

Mr. Todhunter was excused.

On motion of Mr. GILLASPY,

Mr. Harris was excused.

On motion of Mr. ROBINSON,

Mr. Day was excused.

Mr. PETERS moved that Mr. EMERSON be excused.

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Mr. CLARKE, of Johnson. I understand that he voted for the night session. I am opposed to excusing him.

Mr. SCOTT. I shall certainly object to his being excused.

The question being then taken upon the motion to excuse Mr. Emerson, and it was not agreed to.

On motion of Mr. YOUNG,

Mr. Hollingsworth was excused.

Mr. EDWARDS. I suppose Mr. Winchester will expect me to ask that he should be excused. He voted that we should meet here to-night, but is hardly well enough to come.

Mr. CLARKE, of Johnson. I hope he will not be excused. He said he should vote for it and not come.

Mr. SKIFF moved to dispense with further proceedings under the call.

The PRESIDENT ruled the motion out of order, the object of the call not having been answered.

Messrs. Clarke of Henry, Emerson, Johnston, Palmer, Price and Winchester, being absent, and not being excused, were sent for.

On motion of Mr. PATTERSON,

The convention took a recess of ten minutes, during the absence of the sergeant-at-arms in search of the absentees; after which,

On motion of Mr. PALMER,

Further proceedings under the call were dispensed with.

Mr. PETERS moved that the Convention adjourn.

Upon this motion—

Mr. WILSON demanded the yeas and nays, which were ordered.

The question being then taken, by yeas and nays, the motion to adjourn was not agreed to; yeas 10, nays 19, as follows:

Yeas—Messrs. Clarke, of Johnson, Edwards, Johnston, Peters, Robinson, Scott, Skiff, Solomon, Warren, and Young—10.

Nays—The President, Messrs. Ayres, Bunker, Clark, of Alamakee, Ells, Gibson, Gillaspy, Gower, Gray, Hall, Marvin, Palmer, Parvin, Patterson, Price, Seely, Traer, Wilson, and Winchester.

The convention then resumed in committee of the whole [Mr. Gillaspy in the chair] the consideration of the report of the committee upon the right of suffrage.

Mr. HALL. Mr. Chairman, it was not my intention to open my lips in this discussion; and perhaps if we had not met here this evening I should not have done so. I might have allowed to pass the curious abolition speech of the gentleman from Henry [Mr. Clarke], and the second Declaration of Independence by the gentleman from Scott [Mr. Ells], but when the gentleman from Lucas [Mr. Edwards] mounted the war horse of the last canvass, and went into one of the wild philippics which we heard so often during the last campaign, I felt that if this was to be a "free fight," I ought to be there; so that habit rather than anything else has induced me to ask a few minutes before this committee this evening.

I stand here in the minority of this convention. I stand here as one representing the Democratic party of this state. I see rising around me gentlemen who say they have acted with that party in times gone past. Sir, I have acted with that party all my life, and in looking over its history I have seen no cause to regret it. Nor do I see any just cause for casting aspersions upon it. Gentlemen now acting with a party scarce one year inaugurated, a political organization which has scarcely retained its name long enough to be called by it, having had within the last *three* years, certainly *three*, and I am told, *four* political names, stand up here and attempt to traduce a party which had its origin with the government, which has stood the test of time, which has been the originator of every great measure which this country has ever adopted—the party which has originated every step in the march of the country on to glory. They attempt to throw their party slang at the party of which I am a member. They change their name with every moon, and have threatened already upon this floor to change it again before leaving this chamber, unless certain measures shall be adopted.

The party to which I belong needs no vindication before an intelligent world. It has stood too long; its history is too well known to be assailed by a miserable pop-gun.

Now, sir, I have a few words to say, not particularly in reply to the gentlemen, but they will perhaps amount to a reply, and I shall take my own way of saying them. And if I call up a few scenes that have passed, they will at least pardon me if they do not recognise an old acquaintance.

It has been but a few years since this country was divided into two great political parties. Four years ago that was the condition of this country. There was one little insignificant party that polled about sixteen hundred votes in Iowa. That was the party of the old school Abolitionists. They were then too insignificant to command the respect or apprehension of any one.

In those days we had the old line Whig party and the Democratic party; and ever since my recollection the country has been divided between those two parties. In those days we had national contests. In those days we had questions upon which the South and the North severed, when each county, each township, each neighborhood, throughout the broad land, North and South, East and West, was divided. And in this division inquiry was not made, whether the candidate lived in this state or that, south of this line or north of that line.

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The Whig party of the North and the Democratic party of the North looked to the South for their victories. The Whig party always carried Maryland, North Carolina, divided the conquest with us in Georgia, always carried Kentucky and Louisiana, and frequently vanquished us in Tennessee.

When the news of an election came, from North or South, if it was a Whig victory, the Whigs unanimously went out and built their bonfires and fired their cannon, without stopping to inquire whether it was a victory of the North or a victory of the South. A victory in Georgia was as good as a victory in New Hampshire. A victory in Tennessee was as good as a victory in Indiana. No inquiry was made, but all united in the great fundamental principles, and rejoiced in the victory, from whatever portion of the Union it came.

This was the character of the parties under which I was educated and raised. This is the character of the party to which I am now attached. Gentlemen who call themselves Democrats, who have gone off into these miserable sectional questions, have lost their Democratic faith. They are no longer Democrats. How stands the question now? Men talk about their devotion to liberty, who stand with their daggers ready to strike at the very vitals of their country. Men claiming the name of liberty, stand up here before this convention, and denounce with a vehemence, bitterness and wildness, one-half this great nation; take positions rendering it impossible that they should ever fraternise; appeal to low, unnational, and most unnatural apprehensions; excite passions and prejudices; and bring on hostile feelings between the north and south. These are the sentiments we find now. Why, sir, if they had a forty horse power engine, they could not drag these principles across that particular line they draw for themselves. They would die and rot as they crossed it. Yet they call themselves Republicans. So be it.

The distinction between this year-and-a-half-old Republican party—it is not old enough to be weaned yet—and the Democratic party, grows out of the fact that they are at this moment a mere sectional party. And let me point out to you for one moment how the Democratic party may claim their nationality, why they can shout for victories south and north, as they have ever done; why they can stand upon the platform which has carried them through all the difficulties, trials, and tribulations they have encountered since the nation had its birth.

It is a truth, which no man can deny, that there is a universal sentiment in the north, in opposition to the institution of slavery. And the man who charges that we, the Democrats of the north, sympathize with slavery, or are friendly to it, utters that which is untrue. It is untrue in point of facts, and I will prove it untrue by the testimony of every Democrat in the State of Iowa; and you will not find a man, unless he is an interested partisan upon the other side, but will charge it, as I charge it, with being untrue. I say it is the universal sentiment, the universal feeling. There may be a few exceptions; but we always prove a rule by exceptions everywhere. Then go to the south, and you will find there a feeling of the opposite character. Our institutions, our laws, and our purposes, as declared in our public records, and our public meetings, prove that we are opposed to the institution; while at the south, their institutions, their proceedings, and their records, show and establish the fact that they are in favor of it. If this nation is to be brought into conflict, if this universal sentiment, which prevades the north, is to be brought into collision with the universal sentiment which exists in the south, a fig for this Union! Make that the single issue; bring these two popular and exciting opinions into conflict with each other, and the constitution would not be worth a rusk. It would not last a single hour. And the institutions of our fathers, and the constitution which called forth their wisdom, would be blotted out almost by the second generation, blotted out and annihilated forever; and this glorious Union, now the abode of liberty, this example to the world, this hope for the oppressed throughout all nations, this beacon light to the lover of liberty where oppression drags man to the very dust, would be torn into fragments hostile to each other, and disbanded, never again to be gathered together.

This is the position which the Democratic party stand upon. They say:—We have made a contract with the south. That contract has been sealed with the best blood of the revolution, and was again most solemnly declared in the constitution of the country, that upon this great question there shall be no politics betwixt us. Let it alone. Touch it not. That is the language of Democrats, both north and south. This question shall be buried deep in oblivion. The institution shall be local, and depend upon the people acting as a people in their several capacities wherever they may be associated as a people, whether in a State or Territory. To that tribunal, the tribunal of the people in the State or Territory, wherever it is sufficient to settle the question, it shall be left, and the people of the States, north and south, in Congress, or out of Congress, shall not interfere with it, shall not touch it. The Democracy of the north, and the Democracy of the south unite upon that principle. It is the principle which will hold our constitution together. It is the principle which will prevent this Union from being severed; and it is the only one. Here we can meet. The south say:—We want nothing to do with this question. That is the language of the Democracy of the south. It is the language of the Stevens, the Toombs, and other Democrats of the south. This is the language of the Democrats of the north. We will leave this question where it belongs, to the tribunal and forum of the people. That, sir, is the Democratic doctrine. Thus we can unite, as we have always been united. Our politics pervade every county,

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every township, every point, and every hermitage throughout the broad land, because this local question, this question upon which there is a divided sentiment, divided by a line, is thrown out of the question with us. They do not ask us of the north to extend slavery, but on the contrary say that they will not themselves extend it. We of the north say that we will not extend it, and they of the south say—you shall not extend it; and neither will we. They are as fixed upon that as any one, or any party can be, and so are we.

Hence we continue our old relations with these people. We stand as we did four years ago. We stand as we did eight years ago. We stand as we did twelve years ago. And we can have a victory in the South as well as in the North, because it is a victory without this agitating question of slavery in it. We can fraternize with the people then as we have ever done. This is the reason why we are called by these flippant speakers, the slaveocracy of the country. It is because we discard this agitating question. It is because we wish to turn it over to the people to whom it belongs; because we wish to take from the people of this State the power of governing the people out of the State. This makes us odious to these modern Republicans. And I want you to bear it in mind that they are Republicans, for you will forget it, sure as the world, if you look at their conduct.

The Democrats, North and South, say to the people of the territories, in regard to their local institutions, you shall have the right of deciding this question for yourselves. We divorce ourselves from that question, living here in the States, and we turn it over to the people of the territories. Modern Republicans say—no; when you get into the territories you must not govern yourselves; you are incapable of that; we fear you will do something we do not want you to; and so we Republicans will govern you. That is the doctrine of this newly manufactured party. That is the doctrine of gentlemen who make such imperturbable speeches in favor of freedom. How is it here in Iowa? I could quote a volume of the getlemen's speeches, saying: you are endowed, even if you are a negro, with certain inalienable rights, among which are life, liberty, and the pursuit of happiness. Let a man go to the western boundary of the State, to the Missouri river, and he has all the endowments; he is perfectly able to govern himself; the folds of the Declaration of Independence shield him, and the eternal laws of God, of which the gentleman from Henry, [Mr. Clarke,] speaks, still stand over him. He stands there with all the attributes of man; but let him make one solitary step, and he becomes a babe, and comes under the tutelage of modern Republicanism. That is the history of this matter. They are unwilling that the white man in the territory should govern himself, and they seek to retain the power in Congress to govern the people in spite of themselves. And yet this is called Republicanism. Wonderful Republicanism! Wonderful fruits of liberty, these! When it suits their purposes, they are in favor of the largest freedom; and when it suits their purposes they can draw the chains as tight and close as the southern task-master. They have a wonderfully independent way of doing business.

Now, sir, I, as a Democrat, and the party with whom I act, have been struggling, and arguing, and debating for the last two years, in order to secure the liberty of white men after they leave our State, to implant it as an eternally fixed principle of our institutions, to say that a man who lives here and passes into Nebraska, upon the West, or Minnesota upon the North, or who goes to Oregon, New Mexico or Kansas, is protected, when there, by the broad flag of his country, and still retains those rights regarded as inalienable by every constitution in the United States, and by the Declaration of Independence. And yet we are called the slaveocracy; while the party constantly denying him these rights, quarreling to take them from him, and to reduce him, to some extent, to a state of vassalage and slavery, claims to be the only party in favor of liberty. Now these are truths. Here is the record. Here is the history. It proves this beyond a peradventure. This is the issue the two parties are making, and which has been presented to the American people during the last year. Now, sir, I say that they have presented false issues, unjust issues. They have aroused a hurricane of fury and excitement, and have denounced the Democratic party as guilty of things which it never has been guilty of. They have taken the acts of a few persons, located in Missouri, and going into Kansas, violating and trampling upon law, and have absolutely charged them upon the Democratic party. That is not fair. The Democratic party are not responsible, nor have they ever been responsible, for these acts. They have never approved those acts. And because there is a violation of law unknown to any, because there is great violence by a single individual when no person was consulted and no person justified it—that has all been thrown upon the integrity of the Democratic party. Gentlemen have made all the capital they can out of these things. The time is past. History has satisfactorily explained these matters; and the Democratic party now stand clear of these reproaches which it never gave occasion for, and which no tongue but that of slander could ever have uttered against them.

The democratic party believe in State rights, and I have heard that word mentioned very favorably by many gentlemen upon this floor, who hold opinions different from mine. The democratic party believe in the constitution of the United States. They believe that to be a noble compact; a compact that will last, and last for all coming time. They are entirely satisfied with the provisions of that constitution. They are entirely satisfied to be governed by the principles which the constitution has said shall govern them. They are entirely satisfied that when any questions arise under that constitution, or

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an act of Congress, or a treaty, or an act of an officer under the general government, the tribunals which that constitution has pointed out shall be appealed to for a remedy. And when these courts, under the constitution, have decided in accordance with that instrument, we believe that it is the duty of every citizen to stand by them as the constitution and the law of the land. We are a party of laws. We are a party of constitutions. We believe that wherever there is a violation of law there is a remedy. More than sixty years have expired since that constitution took effect, and at sea and upon land, whether at home or abroad, it has been a shield of protection. It has protected the American. It has protected every one who has taken shelter under its flag. In Europe, Asia, Africa, or wherever that flag has been rightly appealed to upon this vast globe, it has sheltered and protected the person who has appealed to it. We believe it is adequate to protect any wrong or any outrage that may be inflicted against us. It provides a peaceable remedy. It provides a remedy as perfect as human laws or human institutions can provide. Wrongs are redressed with more ease, more speed, more certainty, in this country than in any other country which ever existed upon the face of the earth. Remedies are more easily obtained here than they are or ever have been under any other government upon the face of the earth. We have a machinery so arranged that the lowest, the most humble individuals can appeal to the government, and is sure to obtain a remedy.

Yet you find that this constitution has been assailed. You find gentlemen upon this floor who are unwilling to abide by acts of Congress passed under that constitution, and to leave it to the constitutional tribunal to decide whether these acts are constitutional or not. You find gentlemen upon this floor in open hostility to some provisions of that constitution, and to laws passed under that constitution. I allude to the fugitive slave law. The law of 1850 is not more unconstitutional than the law of 1795 was. That law was passed under the recommendation of Washington. It passed in a Congress composed of many of the very men who framed the constitution; and it passed that Congress without a dissenting voice. Yet after sixty years, after it has been declared constitutional by the highest tribunal of the country, you find men rising up and appealing to the people, going before them to produce a revolution, a complete change in the construction of the constitution, and in its manifest meaning. These things are true.

Now I am sorry that the gentleman from Lucas, [Mr. Edwards,] is in this State against his will. I am sorry to learn that he has been banished from his native home. He has drawn a picture of his native flag, and he has told you the horrors, the terrible horrors, of the institutions maintained there. Why is this picture drawn? Is it to excite our apprehension? or is is because we can remedy that evil? Why appeal to those passions of the human heart—because sympathy is the most powerful of all passions and all feelings—why appeal to them unless he expects to derive support and aid in an attempt to remedy the evils which he pictures? Nay, he says he would even shoulder his musket and go there to resist any attempt at interference. Why does he call upon us? that is the question. Is it because, forsooth, he wants to excite these wild prejudices against his native land? Is it because he wishes to encourage upon the part of the people of the north, a hatred of such monsters as the friends of his youth and his early home? Is it because he wishes to excite a hostility against the south? There must be some purpose, some object. He admits that the constitution is a complete and perfect barrier against our interference; that we have no right to raise a voice or a hand against the oppressions and wrongs and outrages that he has pictured. They must stay there, for all that we can do, for all coming time. He concedes all this. Then why this appeal? why this wild outcry, if they are beyond the reach of our exertions? Sir, it is to get up a hatred, an antipathy, a war, a hostility, in the minds of the people of the north, that will ultimately bring on collision, that will ultimately bring on civil war and bloodshed. It can be for this, and for nothing else.

The gentleman entertained us with a little article from the *Day Book*. I never saw a number of that paper in my life. I have heard of the paper, but the nearest I ever saw it, was in the gentleman's reading. How far it may be a leading paper in New York I do not know. Now when the gentleman charged the sentiments of that paper upon the democratic party, was that a fair induction? Was it generous for him to read from a single number of the *Day Book*, and then charge the entire democratic party with entertaining sentiments of that kind? Does that gentleman not know that the attempt to revive the African slave trade has been put down by the legislature of South Carolina, by a vote almost unanimous? Does he not know that it has been met with repudiation in Congress itself? Does he not know that not more than half a dozen members voted against the resolution which he read here? Does he not know that the opposition to that is everywhere almost unanimous? that it is indeed universal, there being hardly enough exceptions to prove the rule by? Why then charge a doctrine of that kind upon the democratic party? Would it be fair for me to charge that gentleman with entertaining the sentiments of the person reported to be the author of the resolutions adopted at the Philadelphia Convention, who says that he "looks forward to the day when the torch of the incendiary and the avenging brand of the slave shall crimson the soil with blood, and although he may not wink at their calamity nor laugh when their fear cometh, yet he shall regard it as a just retribution from Heaven?"

Mr. EDWARDS. Does the gentleman allude to Mr. Giddings, of Ohio?

Mr. HALL. I do.

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Mr. EDWARDS. I state, then, upon the authority of Mr. Giddings himself, that he has used no such language, that the report which the gentleman quotes is garbled and false. It was quoted in Congress not long since, and Mr. Giddings gave it a flat denial.

Mr. HALL. Mr. Chairman, Mr. Giddings has uttered sentiments which he has never disavowed, quite as atrocious as these. There was a leading man in New York who prayed that he might live to see the streets run middle deep in blood, and said that he should look on with complaisance, for a just avenging God would do it. I do not charge that upon the gentleman or his party. Another said that he could spit upon the grave of Washington, and denounced him as a scoundrel. I do not charge that upon the gentleman. There was a preacher, but a few days ago, I see by a paper before me, a leading Republican in Massachusetts, who said:

"We have compelled Buchanan to go into the Presidency with but a small majority, and under a protest from the Christianity, the intelligence, and the decency of the North."

And at the same time he was riding about the country in close connection with another man's wife. Now, if it is fair for the gentleman to charge upon the Democrats the sentiments to which he refers, it is equally fair for me to charge Republicans with all the misdoings and outrageous sayings which every one has noticed upon the part of Republicans. I will be more generous than the gentleman was. I will not charge it upon them. I could go on. I can add to the catalogue as long as he can. We have fools in our party, too, men who act with us sometimes, and who have no discretion; but they cannot endow the Democratic party with their errors and their follies, any more than we can the liberty party with the wild indiscretions and the treasonable doctrines of some of their leaders, who have managed to keep upon the surface of the party, much against the will, I have no doubt, of the majority of the voters in their ranks.

If the gentleman from Lucas [Mr. Edwards] had discussed the question before the convention at all, I should have discussed it. He sat down, and I did not know which side of the question he was upon. But I knew which party he belonged to.

The question before us is simply whether we, as a convention, forming or amending the constitution of our state, for that is our purpose, shall submit a question to the people which is not an amendment until they have acted upon it. It is the question whether we shall travel out of the usual course, and being dissatisfied and disagreed ourselves as to what ought to be done, shall refer the matter back to the people for them to decide for us. If this was a question upon which there was any difference of opinion as to the views of the people; if it was a question which the people wanted to have submitted to them, I would not hesitate a moment. My path of duty would be plain and clear before me. But gentlemen say that the people do not want it. This is admitted by every speaker here. The gentleman from Scott [Mr. Ells] if I am not mistaken, said that he should himself vote against it.

Mr. ELLS. Will the gentleman allow me to correct him? I did not state, at least, I did not intend to state, that I myself would not vote for it. If it is a question made outside of the constitution, I shall vote for it if I vote at all. I did not say that the people did not want it. I cannot say that. I said that I did not believe the people would vote for the constitution if that word was in it; but I did know a very large and respectable portion of my constituents who would vote for this, if the question were asked outside of the constitution; and so believing, I was anxious to give them an opportunity of doing so. That is all.

Mr. HALL. The gentleman has admitted now that the people do not want it—that he does not believe they want it. He has admitted that a large majority of the people will vote it down, and thus declare that the question ought not to have been submitted. The gentleman from Henry, [Mr. Clarke,] made this same honest confession. They dare not risk this question in the Constitution, however much they may be attached to it. The time has not come yet; the abolition yeast has not worked enough yet to justify even the gentleman from Henry, with his sanguine feelings and ardent temperament, in believing that the majority of the people want any such thing. Yet this is the Republican party! They only want to make a beautiful little cradle to rock Abolitionism in, in order to keep up agitation. If that is not their principle, I have looked for it in vain. Conceding, admitting that the majority of the people are hostile to the principle presented here, it is to be thrust upon them against their wishes by gentlemen claiming to be the particular friends of the people. This is a beautiful thing, sir; is it not? Why should these individuals—these old iron-sided Abolitionists, who have produced more mischief, who have bound the chains of the slave tighter, who have injured the cause that they have espoused, and notoriously so, all their lives, more than any other class of men—why should they claim to be the special guardians of the objects of this Convention, and the cause of what I believe to be a miserable minority? They propose to speak the voice of the majority; they proclaim *vox populi, vox Dei;* and yet they will step aside, in derogation of what they know to be the voice of the people, and insist here upon what they believe—they have said it and cannot take those words back—to be against the voice of the majority. They insist that this abolition bantling shall be thrust before the people, to agitate, and to keep up this continuous sectional excitement, to stir up men of the North against their brethren of the South, to unloosen the bonds of this Union, to tear down our institu-

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tions. It appears to me that there must be something elementary to their party in this matter; that they cannot get along unless they feed up this bantling, and keep it as one of the allies of their party. But when gentlemen are charged with being Abolitionists, they fly in my face. My friend from Lucas, [Mr. Edwards,] would not like for me to say that he was an Abolitionist; but I think he is sliding towards their little camp quite rapidly. Take another step or two and the gentlemen will be as good Abolitionists as Gerrit Smith or Wendell Philips. Abolitionism is fitting up its cradle to rock them to sleep in, and will have them before 9 o'clock.

Mr. EDWARDS. [In his seat.] I guess not.

Mr. HALL. I do not mean this night; if I had meant to-night I should have said that they had got into it before seven. The truth is, that this little band of Abolitionists, sixteen or seventeen hundred in this State, are sturdy fellows. I have known them for years, and would not doubt the honesty of the large majority of them. In 1850 the Abolitionists and Whigs united would have carried this State. The Whigs bid for this Abolition vote; they nominated a man out of their party, by the name of Alison; and they adopted resolutions nearly up to the mark; but that party stood firm. Finally, in 1856, the Whigs made a jolly rush, and all went over to the Abolitionists, were rocked in the same cradle, and have fought the same battle, cheek-by-jowl with them, ever since. And now if they cannot reconcile the Abolitionists to themselves, nor themselves to the Abolitionists, why need we be surprised if there should be a revolution among them even in this convention? The gentleman from Jones [Mr. Marvin,] tells them that if they will not make the negro equal, and adopt the principles of *bona fide* Republicans, he is off. And so with the gentleman from Henry, [Mr. Clarke,] I believe. Anything short of old fashioned Abolitionism would make him secede. Either he, or those whom he left, would have to get a new name. This is the way they stand. This is the doctrine. The bantling which they have got up here, is thrust into the faces of the great mass of the people, and they are called upon to vote against their wish and their will. A proposition which it is conceded will be voted down, is to be the bait with which they are to back up these negro voters. That is the whole story—not to waste words about it.

I do not believe there is any man in this convention who thinks that the majority of the people will vote in favor of this measure. I do not believe there is any one in the convention who would put it into this constitution. I believe the gentleman from Henry himself, [Mr. Clarke,] said that if he had the power to strike this from the constitution, he would not do it. It was not because he was not devoted to the principle; because he can beat Samuel Howe in his attachment to the negro population; but still if it depended upon his vote he would not strike that word from the constitution; and why? Because it would violate the public sentiment. But he congratulated himself with the belief that the time was coming; nay, he went further, and said it should come. It *shall* be so. He said, God has made it so, and it must be so. He assumed the sacredotal shape, and became the organ of Heaven, to say to the people what its decrees were. Now I may be entirely mistaken, but this looks to me a little like fanaticism. It looks to me as if men wanted to appear to be prophets, when in fact they have never been acknowledged so, either at home or in a foreign country. My opinion may be worth less to everybody but myself, but I do not believe the day is anywhere near, indeed I do not believe it will ever come, when the black population and the white population of this country will associate together, either as political or as social equals. In one thing I feel the utmost confidence; and that is, that if that time shall not come until you, Mr. Chairman, [Mr. Gillaspy,] shall be one of its champions, we have a considerable respite at any rate.

It would be out of order to argue the question of the propriety of admitting this population upon an equality with the white race. Strike out the word "white" from the constitution! I would as soon strike the word out of Webster's dictionary, as strike it out of the constitution of my country.

The gentleman talks about principle, and about following it wherever it may lead. Why then does the gentleman limit this right of suffrage to white male persons, who are twenty-one years of age? Does not this bill of rights say, that all persons are equal? Are not women persons? Are not minors persons? And are they not created equal? And yet minors and females are excluded from the privileges of other citizens. Our bill of rights, if it does not include them, according to the doctrine of the gentleman, is a libel upon the principles of our government. I would as soon—indeed I would a great deal sooner—trust the females of this country with the right of suffrage, than to trust the colored population, Indians and negroes, with this right.

The gentleman scouted at the idea, that by opening the door here, and making a constitutional equality between the blacks and the whites, opening every avenue of the government to the negroes, we would affect our population. Such an event would not happen immediately, and would not be brought about in a day. But I would ask gentlemen, when all the surrounding States form their institutions so as to prevent the black population from emigrating to them, or living in their midst, and we open our doors to them, would we not have a great influx of that class of population among us? Would we not have our State filled up with that class, when they are secured greater rights and privileges here, than in other States?

The gentleman in the course of his remarks complimented Virginia. I want to show you how we would get this class from that state, to

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whose noble constitution the gentleman referred. I will read you a single passage from the constitution:

"Every white male citizen of the common wealth, of the age of twenty one years, who has been a resident of the state for two years, and of the county, city or town, where he offers to vote for twelve months next preceding an election, and no other persons shall be qualified to vote for members of the General Assembly and all other officers elective by the people."

They struck out the word "negro" here in the very next breath, after they have subscribed to such a glorious sentiment as that, to which the gentleman called our attention.

I find also, that

"Slaves hereafter emancipated shall forfeit their freedom by remaining in the commonwealth more than twelve months after they became actually free, and shall be reduced to slavery, under such regulations as may be prescribed by law."

Most of the slave states have a similar provision to this, that all slaves set free must leave the state within a limited time. If we open our doors, as the gentlemen propose, our state will become the Liberia for the refuse colored population of all the southern states. To say that the mingling of the two classes would not tend to produce amalgamation, would be to deny the laws of nature. We know from the very best evidence, putting it beyond the power of contradiction, that the mingling of the two races would produce a leprous, diseased class of people, feeble and short-lived, as compared with either of the pure white or black races. Why do not the free negroes go to *Connecticut* and *Massachusetts*? There is nothing to invite them there; for they have not the skill to become manufacturers, and they cannot go into workshops and perform work with the skill of the white man. They are indeed sunk in deeper degradation in Massachusetts than they are in South Carolina.

At an early period in the history of the country one hundred and fifty of this class were brought into the state of Maine.

There are now a few of their descendants left, and they are dwindled down into mere dwarfs, and the whole race has become diminished by the rigors of the northern climate.

New England is not adapted, from the business in which it is engaged, to employ that kind of labor; and the negroes are not treated there with that degree of kindness that is found in practice in some other states. Look to Canada, the great point to which the black race has emigrated, and to which the abolitionists are running them daily. The people of that province are petitioning Parliament to send these negroes back, for they consider them a curse to the country.

Canada, in my estimation, will soon cease to become a desirable place of residence for these negroes. In the south part of Iowa we have a climate in which they can live, but they comprise a class of population to which I do not wish to extend an invitation to settle in our midst.

If a foreigner comes here, you can make him, under our laws, give security, if he is liable to become a public charge, and you can send him back to another state from whence he came, if he was a resident of the same. He must remain here five years, and take an oath to support the Constitution of the United States, and prove his character and fidelity to our institutions, before you allow him the right of citizenship, and before he is entitled to that privilege, which you are willing to give the negro at once, and as soon as he steps over the line.

How gentlemen who have found the evil of foreign emigration so great as to make all foreigners ineligible to office, and how gentlemen who have taken an oath to put down the native born citizen, in consequence of the peculiar religion in which he was nurtured, and in which he was educated, can cling with tenacity to the eligibility to citizenship of the negro, and advocate the doctrine of inviting negroes to become citizens of this state, and to make them such upon six months residence, is more than I can account for. But changes come over the opinions of people, for which they cannot give any good reasons.

Questions of this kind come up and last but for a day. I do not believe that the mania upon the slavery question, which is now exciting the public mind, and in consequence of which the mind of the whole country is taken up with the negro question to the exclusion of every thing else that really pertains to the progress and welfare of the country, is to smother up every thing else. I do not believe that this single isolated question is, in the future, to assume the supremacy over the public mind, that it has exerted for the year or two past. I think that other matters will command the attention of the people, and I think that they will ere long turn back to the issues which have heretofore agitated the public mind, and will then begin to look to the success of measures which will tend to advance the interests of this great nation. They will regard the black population in the light of a curse upon this land, and while they look upon slavery as one of the evils that afflicts us as a nation, they will look to some other means than hostility towards the south to remove it. They will not tolerate those feuds and excitements which raise the hand of brother against brother, father against son, and that create a gulf of discord between the north and the south. They will look to the Farewell Address of Washington, and ponder carefully the words of warning which he uttered with a prophetic voice, when he pictured before us the very crisis in which we are now placed. He warned us to guard against internal dissentions and jealousies, for, if suffered to arise in our midst, they would prove fatal to the success and perpetuity of the Union.

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When the gentleman, [Mr. Edwards,] mentions the name with so much complacency, he ought to recollect that he said that a strife between the two sections of the country would be treason to human liberty, and a knell to the Union. It is said that Jefferson, seeing the state of feeling between the north and south, died despairing of a long continuance of this Union.

Gentlemen should consider seriously these things. As American citizens, as patriots loving the constitution of our country, as men who have sworn, since they entered this hall, to support it, we should not be found here exciting a feeling that is sure to tear asunder our glorious constitution, and destroy the institutions which have been reared under it. We ought to hesitate in our mad career, and see what we are doing. If I believed half the gentleman from Lucas, [Mr. Edwards,] has told us, I should believe that the people of his native State were the veriest wretches on earth, unworthy to live in a free country, people with whom we could not associate without contamination. He drew a vivid picture of the cruelties practiced by our southern brethern upon their slaves, but before he got through, he told us that these were exceptions, and that as a general thing, the slaves were well clad, comfortable and happy. Why this continual reference to isolated cases of cruelty and suffering. I can go to the towns of Iowa and Illinois, or to any of the large cities of other States, and find cases of poverty and wretchedness as extreme, and cruelties as great, as any in the slave States. There have been many instances in Cincinnati of persons being frozen to death during the inclement season that has passed, and whom the hand of charity never found until it was too late to succor or render aid. You will find misery and wretchedness everywhere at the north, but then that affords no argument against our institutions, and it affords no reason why we should denounce the communities where those things exist, or excite the feelings of other communities against them.

No; there is a better way than that to work a reform, and that is, to approach our brethren in a spirit of kindness and good feeling, and, if they are wrong, show them if we can in a kind and conciliatory manner, wherein that wrong consists. You cannot force people into the adoption of any measure. But this forcing policy is that adopted by a certain class of the people of the north, when they declare that they will crush out, in spite of them, those institutions which the South have adopted.

Let me put a case by way of illustration. Suppose the matter reversed, and that the South had a majority of federal numbers; and suppose that the increase in this respect, instead of being with the North, had been with the South, and they had a majority in both the Senate and House of Representatives. And having that majority, they should say to the North—there shall be no more free States formed from the territories that now belong to the United States. What would gentlemen say? Here is a public sentiment acting in accordance with the true sentiments of the South, and saying that territory adjoining northern and western States shall be made into slave States. Would the North say it was all right? It strikes me that even the North, with all its cold and phlegmatic temperament, would not quietly submit to such a state of things, but would resist any such dictation. I think when the South should undertake arrogantly, by force of numbers to act against the North, we would find that the North would resist any invasion of their rights. I, for one, would resist any such claim, and they should not by force or power, while the constitution remains as it is, do any such thing. I should feel that the constitution of my country was trampled under foot.

Yet there are persons at the North who are doing this same thing, and they are endeavoring to control the South in that same manner. If this state of things continues, a collision between the two sections of the country is inevitable. We have had already the premonitary symptoms developed among us, and we had last summer almost civil war entailed upon us, by bringing the mere fragments of this sentiment into contact, even in our remote territory. The virulence, hostility and cruelty manifested there were but a drop to the great ocean of blood, which will flow in the event of a civil war between the two sections of the country. The exitement manifested at the North produced a corresponding excitement at the South. Bring on a collision between the South and the North, and no man can tell where it will end.

But in my opinion those partisans who have been foremost in creating feelings of hostility on the part of the North towards the South, and who have been filling the public ear with false impressions with regard to the people of the South, and who refuse to let the people of the territories settle the slavery question for themselves, for the purpose of getting up a feeling between the two sections of the country, will find their occupation gone, for the good sense of the people every where, all over the land, will rise up in rebuke against them. This excitement cannot last always; and this party that now seeks to array one section of the country against another, will soon have to break up or assume another name. They have already had three within the last three years, and they will have still another before the end of another year.

Mr. GIBSON. I did not intend to make any remarks upon this subject. I had supposed, from the course that gentleman had taken in the outset, that this question would have been settled without debate. But it seems to have taken a very different course, and gentlemen have been disposed to prolong the discussion to an indefinite extent. I suppose, however, it is a privilege, when we go into committee of the whole, that persons claim, of of taking a very wide range in the discussion of a subject. I supposed from the remarks of the gentlemen from Johnson [Mr.

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Clarke] that but little if any discussion would have been heard upon this question. He spoke intelligently, and that he was advised upon the matter when he said that there were not five men upon this floor, who would vote for this resolution. If this were a fact—which I begin now to doubt—I did really suppose that it would take very little time to dispose of this question.

The gentleman from Henry, [Mr. Clarke,] I will admit, so far as he is concerned, has been very consistent upon this question. He has been in favor, ever since the commencement of this convention, of striking out the word "white" from the constitution in some shape or other. He is in favor of striking it out absolutely, and submitting the question in such a form, that the people may vote upon it. He has taken occasion, however, to make a long and able speech, and has even said more than I thought he could have said upon the subject under the circumstances; having consumed an hour and a half in the delivery of his views. He has taken occasion, too, to remark that the principles he advocated were Republican principles, that upon them depended the future greatness of the Republican party, and that if this resolution was not adopted by the convention, for submitting this question to the people of giving the right of suffrage to colored men, his people would vote against the constitution. He said they felt directly interested in this matter, so much so, that he would be willing to sacrifice all the labors of this convention for forty days, and vote against all our work, if he could not get that cherished resolution of his incorporated into the constitution.

Next comes my friend from Jones, [Mr. Marvin,] who seemed to be somewhat alarmed, and was fearful that the committee were going to rise, that this matter would be hurried to a vote, and that he and his friends would not have an opportunity to be fully heard upon this question. He said, that he was not prepared to make a speech, and yet at the same time he felt such a deep interest in the subject, that he must say something. He denied, in the most emphatic terms, the position taken by some gentleman, that this question was not a party measure. He said that it was a measure of the Republican party, and if it were not for the slavery question, he would be with the Democratic party still. We have the issue then fairly before us, and, as the gentleman says, the only issue between the two parties is this same slavery question.

Next upon the stage comes the gentleman from Scott, [Mr. Ells,] and he expressed the same opinion. He says, that upon this resolution the future greatness of the Republican party depends, and if the Republican party of this convention fail to adopt it, they are doomed to inevitable defeat in November next. This is taking pretty strong ground, and it is placing my friend from Johnson [Mr. Clarke,] in a peculiar position.

Mr. CLARKE, of Johnson. "My friend from Johnson" can take care of himself.

Mr. GIBSON. It seems from the course that these gentlemen are pursuing, that the gentleman from Johnson is not a Republican. There was nothing very remarkable in the remarks of these various gentlemen, further than the position they assumed in regard to making the slavery question the issue between the two parties. If they wish to make this issue, I have no objection. I had as lief take issue with the Republican party upon that as upon any other issue.

Next comes my friend from Lucas, [Mr. Edwards.] We are near neighbors, only divided by county lines. What position he occupies upon this issue, I do not know. He spoke here for about an hour, but he did not tell us what side of the question he maintained. With all the skill and ingenuity of which he is master, he depicted the evils of slavery in the slave States, and attempted to show that slavery was a sin against Heaven, and he called God to witness, that it was a sin against nature. Suppose it is so, what then? If the gentleman intends to be consistent and honest, why does he not go to work to remove this evil where it exists?

This is rather a new issue got up here. The Republican party, in the section of the country where I have been residing, claim that they do not want to interfere with slavery where it now exists, and that they made war only against its extension. But this gentleman goes a little farther, and if he were to follow out his views, he will go for abolishing slavery throughout the Union. There is no other course left for him to pursue. True, this seems to be a singular course of argument to be taken in committee of the whole in a constitutional convention, upon a subject which was not before the convention at all; but, however, I suppose it is all well enough.

The gentleman from Lucas, [Mr. Edwards,] went on to prove that the testimony of a negro ought to be good, when he had known of a case where the testimony of a horse had sent a man to the penitentiary. This may be true; I do not dispute the gentleman's word; but I have never yet heard of a horse giving testimony. I have some recollection of reading somewhere of a dumb ass speaking with a man's voice; [laughter] but how a horse could give evidence I cannot understand.

As I before remarked, I did hope that this question would not have opened so wide a range of discussion, and consumed so much time. These gentlemen have evidently had this thing in soak for the last four or five weeks, and there must needs be a general delivery here of their speeches.

The gentleman from Lucas argues, that the Democratic party is a pro-slavery party, and that it has become the back-bone to the slaveholders of the South. Let us see how this is. The Democratic party, as a party, have a general platform. They met last year in national

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convention, at Cincinnati, in which every State in the Union was represented. What was the platform adopted there? They laid down the principle that Congress had no right to legislate upon the subject of slavery in the territories, but that the people of a territory had a right to make their own municipal rules and regulations; that they were sovereign and had a right to prohibit or allow slavery, just as they saw fit. This being the case they said that Congress had no power to legislate upon the subject of slavery in the territories. While we, in the free State of Iowa, who cherish freedom as opposed to slavery, stand upon that platform, does it prevent our friends in Louisiana standing upon the very same platform? Not at all. While the people of Louisiana may be in favor of slavery, and may believe it to be a divinely appointed institution, yet they compromise upon this principle, and say that Congress has no right to legislate upon the subject of slavery in the territories, and that they will leave it to the people there to determine this question for themselves. The North and South can stand side by side upon this common Democratic doctrine. They each may have their own peculiar views of slavery, but they compromise upon the question of leaving it to the people of the territories to determine for themselves. They have a right so to do. There is where the Democratic party of the North has become the back-bone to the slaveholders of the South, and the only way in which the gentleman can make it so appear.

Let us turn for a moment, and examine the resolutions which were laid down as planks in the platform of the Republican party in their national convention. It was a sectional convention. There was not a representative in it by authority from any slave-holding State of the Union. It was a convention of the North exclusively, convened to bring forward a sectional candidate for the Presidency. What did they charge upon the Democratic party in their resolutions? They charged the Democratic party with being a pro-slavery party. I have already shown you what the position of the Democratic party was upon that question, and I have shown you clearly and beyond a doubt in the mind of any unprejudiced man, that the Democratic party is not a pro-slavery party, and that they are clearly opposed to the extension of slavery any where. What do the Republican party say upon this subject? They meet in their sectional convention and resolve that Congress has sovereign power to legislate for the government of the territories. If Congress has sovereign power to legislate for the government of the territories, then, as a matter of course, the people are not sovereign, but Congress is. Where, then, is the love of these gentlemen for "the dear people," of which we have heard so much from them? You make, by this doctrine, the people servants, and Congress sovereign. I say, then, take their resolutions, and the principles which they laid down in their platform at Philadelphia, as the basis of their action, and to what will it lead them?

If it be true that the Democratic party is pro-slavery, as they charge, then they cannot deny that the next Congress, which will be Democratic, has the right to say that slavery shall go into every territory of the Union. They have laid down the principle that Congress has sovereign power to legislate for the territories; and now, if the Democratic party, having a majority in both branches of Congress, assume that position, they will have a right, according to the creed of the Republican party, to legislate slavery everywhere. But, so far from the Democratic party being a pro-slavery party, I deny it. Their platform and all their resolutions deny it, and place it beyond the power of Congress to legislate upon this subject. But the platform of the Republican party admits the doctrine that Congress has the sovereign power to legislate upon this subject, and that they may make slave territory if they will.

The gentleman from Lucas, [Mr. Edwards,] attempted to prove that the Democratic party was a pro-slavery party, and that they were in favor of the extension of slavery, which is not the fact, nor can the gentleman cite one instance where that party have endeavored, as a party, to extend slavery. Slavery has been on the decrease ever since the formation of the Union, and it is still on the decrease.

A single remark here in relation to the mingling of the two races, the black and the white.

Is there any gentleman upon this floor who is willing to place the black man upon an equality in every respect with the white man? I presume there are but very few. Such a proposition may look very well upon paper, but it will not do to carry it into practical operation. Are these gentlemen willing to admit that the black man is equal, socially, politically and morally, with the white man? But, say they, we do not want that; we want to give them the privilege of the elective franchise, and the right of testifying. If, as they contend, in the theory which they held in regard to the bill of rights, the doctrine that all men are created equal applies to the black as well as the white man, why do you make this distinction? If this declaration is intended to apply to the black as well as the white race, then you must place the black man upon a perfect equality with the white man in every respect. There is no dodging the question, and whenever gentlemen commence telling us that they must stop short of putting the black upon an equality with the white man, they admit by their own confession that they do not regard the two races as equal.

Gentlemen may draw their own conclusions, and make their own deductions, how much the black is inferior to the white man.

So far as this question is concerned, it is urged here, that it can do no harm if it does no good to refer this matter to the people, and let them determine for themselves whether this provision shall be incorporated as a part of the constitution or not. This argument seems to have some plausibility in it at first sight, but then,

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these same gentlemen turn round and say that they have no idea that it can possibly receive a majority of the votes of the people of this State. Why, then, encumber the constitution with this question? Why ask the people to act upon a question which they admit in their speeches cannot be carried? Why ask the people to do a thing which they say they will not do? Upon this point I have but a word to say. I will not, by any act or vote of mine, refer this matter to the people. Why will I not do this? It is not because I am afraid to trust the people; but it is because I know it will be voted down by four-fifths of them.

I have too much respect for their wisdom and intelligence to refer this matter to them because it will be an insult to them.

I say it would be an insult to them, and I stand here responsible for the assertion I make. To say to my constituents in my district, or to ask them to vote upon this question would be virtually saying to them, will you place yourself upon an equality with the black race? It would be, in my opinion, virtually asking them, if they believed the negro was as good as they. I cannot tell how other gentlemen think upon this matter, but I would regard it as a direct insult to my constituents, and I could not and I would not, under any circumstances insult them in that way.

The gentleman from Henry [Mr. Clarke] thinks his constituency must have a vote of this kind; and the gentleman from Scott [Mr. Ells] and the gentleman from Jones [Mr. Maruin] are of the same opinion. If we could fix it up in some shape, I do not know but it would be a good arrangement to submit this question to the people of these three counties, Henry, Scott and Jones, this would gratify their constituents, and it would no douot be a gratification to these gentlemen to submit this question to these counties individually. I believe I would support that amendment, but I cannot under any circumstances vote to submit this question to the constituency of Marion county.

I have taken a great latitude in the discussion of these matters but as gentlemen have been discussing slavery and the principles of the Kansas act, I supposed I had full liberty to indulge in this strain of remarks as well as others.

The remarks of the gentleman from Lucas [Mr. Edwards] reminded me very forcibly of some remarks made by Colonel Lane last summer and if the gentleman has ever heard him speak I think he must have committed a portion of his remarks to memory. Our town had the honor, of having a celebration of the 4th of July, at which Colonel Lane made a speech, in which he proclaimed his determination to violate the laws of his country and make war against the constituted authorities. And he arraigned Franklin Pierce before his country as a murderer. Such a man as "Jim Lane" desecrated that glorious anniversary of our independence, by arraigning Franklin Pierce as a murderer before his country, when he at that time was making his way to Kansas with the avowed purpose of trampling under foot the laws of his country and violating the supreme laws of the land.

Mr. EDWARDS. I have not heard Col. Lane make a speech since he was the Democratic candidate for Lieut.-Governor of Indiana.

Mr. GIBSON. I did not say that the gentleman had. The remarks made at that time by Col. Lane, upon the celebration of a day so dear to all patriots, made the blood recoil in the veins of hundreds of people, who had come there from the surrounding country in order to participate in ceremonies fitting to such a glorious occasion. Some of the citizens present took occasion to dispute the truth of some of the remarks of Col. Lane, and other speakers who followed him, and what did they bring down upon themselves? One of the Republican speakers remarked that such men as these, who would speak in this manner, ought to be rode upon a rail; and then these freedom shriekers clapped their hands and cheered loud and long. Yes, they were willing to have their fellow citizens rode upon a rail, if they dared to raise their voices against such conduct.

This was not all. A certain doctor remarked that these citizens, who had thus expressed their dissent, ought not to be tolerated with respect enough to be rode upon a rail, but they ought to be spit upon like dogs.

This was the kind of argument, and these were the opponents we had to meet in the last canvass. I confess I am surprised, after the lapse of several months, to hear the gentleman from Lucas [Mr. Edwards] revive this same kind of argument. It is from this cause, and it was not of my own free will, that I advert to these facts. I do not wish to revive the memory of these by gone scenes, because they are not at all pleasant. Nor would I have done so under any circumstances, had I not been led to do so by the train of remarks indulged in on the other side.

Without taking up the time of the committee at any greater length, I wish it to be distinctly understood, that I shall vote against this and every other proposition that has for its object the amalgamation of the black and white races. I was raised and educated in a free state, and not like the gentleman from Lucas, in a slave state. I know very little from practical knowledge about the black population, and I care very little about them. I wish it to be distinctly understood, that I am decidedly opposed to any provision in this constitution by which the white man may be dragged down to the level of the black man.

Mr. SCOTT. I wish to ask the gentleman if I understond him to be opposed to the spirit of this resolution? [Laughter.]

Mr. GIBSON. Yes, sir, I am.

Mr. PARVIN. I wish to make some remarks upon this subject, but if it is the wish of the

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committee to rise, I would yield the floor for a motion of that kind.

Cries of "go on," "go on."

Mr. PRICE. I move that the committee rise.

The question was taken, and the motion was agreed to, upon a division, ayes 17, noes not counted.

The PRESIDENT having resumed the chair,

The CHAIRMAN reported that the committee of the whole had had under consideration the subject referred to them, had made some progress therein, and instructed him to ask leave to sit again.

The report of the committee of the whole was received, and leave granted accordingly.

On motion,

The convention then adjourned till to-morrow morning, at nine o'clock.

TUESDAY, February 24th, 1857.

The Convention met at 9 o'clock, A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of Saturday was read and approved.

No petitions, memorials, or reports of committees were presented.

Order of Business.

Mr. GIBSON moved that the convention go into committee of the whole, upon the report of the committee on education and school lands.

Mr. CLARKE, of Johnson. I hope that motion will not prevail. The gentleman from Scott, [Mr. Ells,] who has a deep interest in that subject, is not now in his seat. We have also another subject under consideration, which I hope the convention will go on with this morning. I think it is important that we should dispose of the bill of rights, and the article on the right of suffrage, as they constitute the first part of the constitution, so that they may go into the hands of the committee on revision.

Mr. HALL. I hope the report of the committee on education and school lands will be taken up this morning. This question of the right of suffrage was under discussion all day yesterday and also last night. I am willing to meet here every evening until the convention adjourns, to discuss that subject; but I do not think we should use up any portions of our day sessions in discussing it. I think we can get through with it by taking only evenings for its consideration.

The question was upon proceeding to the consideration, in committee of the whole, of the report of the committee on education and school lands.

Upon this question—

Mr. GIBSON called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, the motion was not agreed to; yeas 9, nays 17, as follows:

Yeas—Messrs. Ayres, Gibson, Gillaspy, Hall, Palmer, Patterson, Peters, Price and Solomon.

Nays—The President, Messrs. Clark of Alamakee, Clarke, of Henry, Clarke, of Johnson, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Traer, Warren, Wilson, Winchester and Young.

Mr. CLARKE, of Johnson, moved that the convention resume, in committee of the whole, the consideration of the report of the committee on the right of suffrage.

Mr. HALL moved a call of the convention, which was ordered.

The roll was then called, and resulted, present 26, absent 10, as follows:

Present—The President, Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Gibson, Gillaspy, Gower, Gray, Hall, Hollingsworth, Marvin, Palmer, Parvin, Patterson, Peters, Price, Scott, Seely, Skiff, Solomon, Traer, Warren, Wilson, Winchester and Young.

Absent—Messrs. Bunker, Cotton, Day, Edwards, Ells, Emerson, Harris, Johnston, Robinson and Todhunter.

Mr. PARVIN. I would state that Mr. Todhunter is unable to come out this morning. He will be in attendance upon the sessions of the convention when the weather is more agreeable.

Mr. GOWER. I would state that Mr. Bunker is quite unable to be here this morning.

Mr. PALMER. Mr. Harris also is too ill to be here.

Mr. PATTERSON. Mr. Day was about starting from his boarding house when I left.

The PRESIDENT stated that Mr. Cotton was absent under leave.

Messrs. Emerson, Edwards and Johnston appeared and took their seats.

On motion of Mr. WILSON—

Further proceedings under the call were dispensed with.

The question recurred upon the motion to resume, in committee of the whole, the consideration of the report of the committee on the right of suffrage.

The question being taken, the motion was agreed to.

Committee of the Whole.

The convention then resolved itself into committee of the whole, (Mr. Gillaspy in the chair,) and resumed the consideration of the report of the committee on the right of suffrage.

The CHAIRMAN stated the question to be upon the amendment offered by Mr. Skiff, to so amend the resolution reported by the select com-

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mittee, that it shall apply only to the article on the right of suffrage.

Right of Suffrage.

Mr. PARVIN. Mr. Chairman; I understand the resolution reported by the select committee on the right of suffrage, to embrace a proposition to submit to the people of this State, at the same time the constitution we are now engaged in framing, shall be submitted to them, the question of striking out of that constitution the word "white," wherever it occurs. The amendment proposed by the gentleman from Jasper, [Mr. Skiff.] is to so modify the resolution that it shall relate exclusively to the article upon the right of suffrage.

Now, sir, I am in favor of that amendment, and when the resolution shall have been so amended, I shall be in favor of the resolution. I am in favor of the amendment because I desire to obtain a vote of the people directly upon the one question of the right of suffrage, stripped of everything else, so that the people may know exactly for what they are voting. I see no difficulty about submitting this question to the people in the proposed amended form. It entails no expense upon the State, and there can be no objection to it upon that ground. I can, therefore, see nothing wrong in it.

It has been urged here that it would be unnecessary to submit this question to the people, because a majority of them would probably vote against it. Be it so; I still say, submit the question to them. The doing so can do no harm, and thousands of the people of this State demand it as a right, and the doing so will ensure their support to the constitution as amended by this convention. Although the friends of the proposed measure may be in the minority, still I see nothing wrong in submitting it to them.

Do we ask a precedent for this? We have only to look to the history of the different States that have submitted this question as a distinct proposition to the people of their respective States, at the same time they submitted the constitution to them, in which they had left this word "white;" thus allowing those who desired to have it stricken out an opportunity to express their sentiments by a separate and distinct vote, and insuring their support to the constitution. Our democratic friends here appear to be arrayed against this proposition. Let them look to the State of Indiana. The constitutional convention of that State was strongly democratic, yet they submitted this question to the people as a separate and distinct proposition. And so it was in Michigan, under similar circumstances. We have therefore precedents sufficient, from the very party who are here now arrayed against this measure.

But even if there were no precedents, let us ask ourselves the question—is this measure right in itself? As a delegate from Muscatine county, I will myself vote to retain the word "white" in the constitution. But while I do this I am aware that upon that subject I shall misrepresent a great many voters in my county. I do not say a majority of them, but a great many of them, ask that this word "white" shall be stricken out. But, as they have expressed themselves to me, they will be satisfied if this convention will give them the opportunity to vote upon this question, separate and distinct from the constitution.

Now is there anything wrong in this? Suppose it is voted down. Is there any injury inflicted upon any one? Why should we vote against a proposition that a large minority of the people demand—I do not know even that they are but a minority—a proposition that can be adopted without the violation of the rights of any man; a proposition so harmless in itself, so just, and so agreeable to the wishes of the people—why should we vote against it? I can see no reason in the world for doing so.

If any gentleman here is satisfied that but five members here will vote for this proposition, I want him to put down the delegate from Muscatine as one of them. This matter was agitated to some extent in Muscatine county before the election. I stated then that if I came here as a delegate, I would not vote to strike the word "white" from the constitution, but I would vote to submit the question to the people, as a separate question.

Why should gentlemen be afraid of this thing? Are they afraid that a majority of the people of this State are in favor of this measure, and thus the colored portion of our population will be allowed to vote? If they will turn their attention towards the southern States, where the degradation of the black men is far greater than elsewhere, where he is only considered in the body politic in the same light as a horse or an ox, they will find two States where black men are allowed to vote. I will read from the constitutions of two of those States to show that such is the case. First from the constitution of North Carolina, as follows:

"All freemen, of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same county, of fifty acres of land, for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate.

"All freemen of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons, for the county in which he resides.

"All persons possessed of a free-hold, in any town in this State, having a right of representation, and also all free men, who have been inhabitants of any such town twelve months before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a

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member to represent such town in the House of Commons; provided, always, that this section shall not entitle any inhabitant of such town to vote for members of the House of Commons for the county in which he may reside; nor any free-holder in such county, who resides without or beyond the limits of such town, to vote for a member of the said town."

It does not say every "free *white* man," but every "freeman." A black man who is free, and is possessed of the requisite property qualification—and that is not more than the gentleman from Des Moines [Mr. Hall,] proposed in the case of voting county loans to corporations for internal improvement—every black man, with the requisite property qualification, is entitled to vote in the State of North Carolina.

The constitution of Georgia says:

"The electors of members of the General Assembly shall be citizens and inhabitants of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they may have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided six months within the county," &c.

Here then is no qualification in regard to property or color. If a man is a free inhabitant, and has been in the state and county long enough, he is entitled to exercise the right of the elective franchise.

And should we in a free state, be more afraid, even if this thing was to be applied directly to the constitution and give the negro the right to vote—should we be more afraid of that than are the slave states? But we do not ask as much as that, we only ask that the white men of this state, those who now possess the right of elective franchise under the constitution shall enjoy the small boon of saying whether they wish the word "white" to be stricken out of the constitution or not. They do not wish that *thirty-five* men here shall deprive them of the right of expressing their opinion upon this subject, and that is all that the majority of this convention asks.

I have shown this convention two States where black men are allowed to vote. And in the bill of rights of the constitution of Florida I find the following:

"That the great and essential principles of liberty and free government may be recognized and established, we declare—

"That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property, and reputation, and of pursuing their own happiness."

According to this, not all *white* men, but all *free* men, are equal. And a clause similar to this one will be found in the constitutions of most of the Southern States. Not all *white* men are equal, but all *free* men, are equal, and have certain indefeasible rights. I mention this to show that we do not propose to go so far in this matter as many of our sister States have gone, in asking that this question shall be submitted to the people as a separate and distinct question.

We are creatures of prejudice; none of us, perhaps, are without them. If we undertake to carry out the prejuice of any individual, in this matter, where would the elective franchise rest? There are societies of men, or were some time ago, so I have been told, in the United States, who denied the right of foreigners to vote, as they are now permitted to do under our constitution. They would deny the right of voting to a man who was born in Ireland or Germany, as our present democratic party would deny it to a man who has a black skin. And let me say here that they would not confine their proscription to men who have black skins. Nine-tenths of the blood flowing in their veins may be Anglo-Saxon blood, and that of the "First Families of Virginia," and yet they would not allow them the right to vote.

Now, if you undertake to carry out all these prejudices, where will they lead you? Perhaps I stand alone upon this subject. I do not know; I hope not. But I will, for myself, judge a man by his head and his heart. I do not care where he was born, or what may be the color of his skin. If he has "a heart that can feel for another's woe," has intelligence, he is a man and a brother. I care not what his color may be, or where he may have been born, "a man's a man, for a' that."

Perhaps I have peculiar views with regard to this unfortunate race. I think I have my prejudices against them. But I look back and see that they have been brought from their native country, by the high hand of oppression; they have been sold in this country, and they and their descendants have become articles of traffic. I consider that we owe them a debt, in consequence of this system of slavery, which was entailed upon us by Great Britain, and subsequently by Congress. We owe them a debt which we should repay by educating them, and colonizing them in their own country. As I have said, I have my prejudices against them. My prejudice is such as to lead me to desire that they shall not be left in this country, because I do not think their presence would be advantageous to either of the races. I am, therefore, a colonizationist.

I am in favor of using all constitutional means against slavery. I would check it where it is now. And when once it is securely confined, the increase of the black population will be such that their value will be depreciated until the consent of their masters will be easily obtained to their emancipation. Then let provision be made for their education, and then send them to Liberia, if they are willing to go. But I would not force them to go, if they were not willing to leave this country. If they will remain here in

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the United States, then let them remain. But if they will consent to go to Liberia, then let provision be made to send them there.

The idea that slave property will be depreciated by confining it within its present limits is no new idea. Governor Wise, of Virginia, argued correctly when he said, last summer, that if slavery was admitted into Kansas, it would enhance the value of every slave in Virginia. There is no doubt about that. It must be spread or it will be depreciated. Then let us stop it now where it is.

I know that every man who takes this ground is styled an abolitionist. Now, what is an abolitionist? I suppose there is not a man upon the other side in this convention who does not know what an abolitionist is. And if they do understand it, where is their sincerity and honesty in applying that term to those who do not agree with them upon this question? The whole republican party is arraigned as an abolition party. An abolitionist—and there are but few of them in the United States—is one who desires to abolish slavery where it now exists. In my opinion, we have no constitutional right to do any such thing. All we ask is our right under the constitution; we have no constitutional right to interfere with slavery where it is, consequently the republican party is not an abolition party. We do not seek to interfere with slavery where it is. I hope, therefore, gentlemen will think one moment, when they get up here, what the word "abolitionist" means, before they apply it indiscriminately to all who may differ with them upon this subject. They will see that they are charging those with abolitionism who entertain no such sentiments. I care nothing about the matter myself. I would as soon they called me an abolitionist as not.

I perceive that the discussion upon the resolution, now before the committee, has taken a wider range than it should have done. I came here, not intending, so far as I was individually concerned, to go into a discussion of any of the political topics of the day. I consider that we were sent here for a higher and a nobler purpose. We were sent here, not as partizans, but as individuals, selected by the people of this State, to form such a constitution that the people of this State would be willing to adopt in preference to the one they now possess.

I have not introduced this political discussion; I did not intend to do so; but it has been introduced, and we are now engaged in it. And, as an humble member of the Republican party, I say that we have nothing to fear from the investigation of this subject. So far as the political principles of the two parties upon the subject of slavery are concerned, we have nothing to fear.

And I wish it to be distinctly understood now that if, in the heat of discussion, I should say anything, in any remarks I may make, that may be construed as, in any sense, a personal allusion, I have no intention to say anything of the kind. I came here prepared to meet every delegate I should be thrown with here as a friend and a brother; and I wish to so conduct myself here that, when we part, we may part with that brotherly feeling which ought to pervade the hearts of a body of men, assembled, as we are here. I have no intention to impugn the motives of any gentleman.

But I have, as an humble member of the Republican party, a few remarks to make in regard to the Democratic party. Now, when I allude to the Democratic party, I do not wish to be understood at all as alluding to that old time-honored national Democratic party, but as alluding to the present modern Democratic party, which I consider to be a bogus party. I think I shall be able before I get through, to show that the present Democratic party have abandoned all their old issues upon this important subject, and have taken to themselves new issues. And while I do not arraign them for doing so, I feel that I could not have gone with them without abandoning my self-respect. I could not do it and feel that I was acting rightly.

It is unpleasant, in discussions like the present one, for persons to allude to themselves; but I shall, perhaps, be compelled to do so, owing to the peculiar position I occupy here. I find myself, in this body, arrayed against my old political friends—those for whom I have heretofore voted—those with whom I have heretofore rejoiced to act. And I shall attempt to show here that, upon this question, they have gone far, far astray from the old rules of action laid down by the founders of the old Democratic party, and that I stand to-day where our forefathers stood, and where I rejoice to stand—in opposition to the extension of slavery—not in opposition to slavery in the States where it now exists, but in opposition to its extension over territory now free.

I was educated a Democrat from my boyhood. Faithfully did I adhere to that party until I could no longer act with it. Many things did I condemn ere I left that party, for my love of party was strong. And when I did, at last, feel compelled to separate from my old Democratic friends, it was like tearing myself away from old home associations. I did it, however. And though I have done many things during my life, the memory of which I would gladly blot out, yet that act I hold to be one of which I shall never regret or feel shame. I expect, as we must all expect, soon to leave this world and its many scenes. I believe we must all give an account of our acts and deeds here, moral and political. I believe no man can be dishonest in politics, and escape the punishment, more than he can in other matters. He has no more right, and will receive no more justification, to do the one than the other. And when he sees a measure that he believes to be wrong, it is his duty, as an honest man, to oppose it. And, in view of this responsibility, I feel that in all those things I must endeavor to discharge my duty as a man and a Christian—as one of the universal human race. And I feel that I stand, at this

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time upon the foundation of truth and justice. I feel that I am battling, not for the rights of the black man alone, but for the rights of all the human family—that I am acting upon this question as our forefathers would have acted—that I am pursuing the path that they marked out, and which is so plain, "that the wayfaring man, though a fool, may not err therein."

I rejoice that I stand, this day, with the republican party. Call them "black republicans" if you will; I care not about that. Although gentlemen upon the other side have made the declaration here that the republican party is a short-lived party, and will soon pass away, I say to them, when we find the party passed away, all gone and no more known as a party, come to me, if I am still living, and I will show you one of the faith who will be left. The principles of that party I believe to be just and right. And when I am satisfied that I am right, I will stand against the world. I shall always make it my aim to carry out Crockett's idea—"be sure you are right, then go ahead." And if this party are so short-lived, if it is so soon to pass away, if it will so soon discard its present principles, I will still stand by those principles, for the few years I have yet to live, because I believe them to be right, and will never discard them, whatever the republican party may do.

This party, so short-lived, I know has been in existence but a short time, still it is able even now to stand alone; it has made its mark in the history of the country. It is still young, increasing in vigor from day to day, and it will be able to fight its battles, and victory will crown its flag, until the last vestige of this blot upon our nation's escutcheon has been effaced. I shall not live to see that happy day, but I believe the principles of the party are so correct, are so thoroughly based upon truth and justice are so entirely consonant with the laws of God, and the well-being of society, that they must prevail. We do not propose to do anything with slavery in the states where it is now recognized and supported by state laws. But I believe the day will come when they will see their error, and that measures will be brought forward and carried out, until we may rejoice that not a human being upon our soil is a slave.

Short lived as this party has been, what has it done? Before it was a year old, it marched up to the ballot box and polled more than half a million of votes. And from whence did those votes come? I do not say that the present Democratic party are ignorant; I know such is not the case. There are just as intelligent men, just as honest and moral men, just as good Christians, in that party as can be found in any party. While it would be wrong for me to hold slaves, believing, as I do, that the institution of slavery is in itself morally and politically wrong, it is not wrong for others, who have been taught and educated differently.

I do not denounce slaveholders as some do. But I do say that the late election does show conclusively that the great mass of the intelligent population of the United States acted with the Republican party. And though gentlemen here are advocating the free school system—and I rejoice at it, because I believe it will be the salvation, to a very great extent, of our country, —yet I wish to say that those who wish to perpetuate the present Democratic party, and make it omnipotent in the government of this country, must discard free schools, because the strength and power of the party is founded upon the ignorance of the masses of the people. Look at the returns of the last Presidential election, and compare them with the statistics of the last census, and see if I am not warranted in the assertion I have made. Take, for instance, the slave states—the fifteen of them—and what is the per centage of illiterate persons there? The census returns show that one out of every twelve white persons in the slave states could not read and write. Go to the free states, and you will find that but one in forty cannot read and write. Which of the slave states has the greatest proportion of illiterate persons? North Carolina has, for the last thirty years, borne the palm of being the most illiterate state in the Union. Tennessee ranked second, until the last census, when Arkansas took that position, and Tennessee came in as third, while Georgia ranked fourth. All these states went largely Democratic at the last election. In which of the free states do you find the least per centage of illiterate persons? The most, if not all, of the New England states, and they are all Republican. Which among the free states has the greatest per centage of illiterate persons? Why, that state where the Democrats had the largest majority, in proportion to the population, the state of Indiana. And second in the ranks of ignorance stands Illinois, another free state that went Democratic.

Now, in view of these facts, am I not warranted in saying, that if the present Democratic party desire to make and keep their party the dominant party in this country, they must discard free schools and general education?

Where free schools have flourished, and education has become most general, there the Democratic party has been in the minority. And where free schools have been discarded, as in the South, there the Democratic party flourishes predominant over all opposition.

I have said that as to honesty, I believe there are honest men, and as good men, in the democratic party as in any other. I wish to be correctly understood in this matter. What I have asserted here, the census returns fully corroborate and confirm. And I say again, that as short-lived as has been the republican party, it has achieved wonders.

We are told here that the present democratic party is a national party, and the republican party is a sectional party. Let us examine that and see if such is really the case. It is very important, at the present time, that we should ascertain which is the national, and which is the sectional party. That is most assuredly the sec-

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tional party which seeks to make a national measure something which the constitution of the United States has made sectional, or which wishes to make sectional that which the constitution has made national. The national party is the one which seeks to carry out the constitution as it is. Our constitution is a national, not a sectional constitution. And any party or set of men which seeks to carry out that constitution as it is, must be a national party. Now I do not care if that party, or that set of men, are all to be found in the limits of one State, and whether that State be the State of Maine, or the State of Texas. Yet if they are advocating principles which are the principles of the constitution, they are national and not sectional. They may be in the minority, still they are national. If they advocated sectional measures, to be in the majority would not make them national. If they are striving to make something national, which the constitution makes sectional, no matter how largely they may be in the majority, they are still sectional. In that I am correct, most assuredly.

Now if I can show that the present democratic party are endeavoring to make something national, which the constitution makes sectional, then I shall show that it is a sectional party, and not a national party. And if, on the other hand, I can show that the present republican party are advocating the constitution as it is, and as it always has been, then I will show that it is a national, and not a sectional party. That I expect to do. And to do it, we must go back to the foundation of our national government. We must show what the constitution meant when it was adopted, as interpreted by those who framed it. For I hold that we can get no better testimony, we can bring forward no better witnesses as to what the constitution means, than those men who made it.

I contend that there is no ambiguity about our constitution. When our government was formed, twelve out of the thirteen States were slave States. Just before the adoption of the constitution Virginia had ceded a large area of territory—the north-west territory, as it was then called—to the confederation of the States. In regard to this deed of cession, the ordinance concerning the north-west territory—now known as the ordinance of 1787—was first introduced into Congress by Thomas Jefferson, in 1784. It then received a two-thirds vote, but not a unanimous one. The same ordinance, in substance, was brought forward in 1785 by Rufus King; and in 1787, it was again brought forward by Mr. Deane of Massachusetts, and then it received the unanimous vote of all the States represented in Congress at that time. It was during this time that the constitution was being matured. This ordinance specified that slavery should never be permitted to exist in this territory ceded by Virginia. All the territory then owned by the United States—except some small sites for fortifications, &c., which they had received upon the express condition that they should not interfere with slavery—every foot of land that Congress had any control over in that respect, was declared to be forever secure from slavery.

There is deep meaning to be found in this portion of our history. And I do not see how any person can examine the acts and speeches of these men in those days, and come to any other conclusion than that Congress, that even the most sanguine devotee of slavery, never expected that that institution would be ever extended beyond its then existing limits. So tenacious were those men in regard to this matter, that they would not suffer the word "slave" to have a place in the constitution. And in but three places in that constitution can there be found anything which can be construed into an allusion to slavery.

In 1787 the ordinance in regard to the north-west territory was passed. In 1789 the constitution of the United States went into operation. Now I wish to call the attention of gentlemen here to an act which was passed by the first Congress under the present constitution of the United States, on the 7th of August, 1789, and approved by George Washington, then President of the United States. That act continued in force the ordinance of 1787. That ordinance had been suspended by the adoption of the constitution, and must have gone out of existence, had not Congress seen proper to adopt an act keeping it in force. That act kept in force the old ordinance of 1787, merely making the necessary verbal alterations in it, to make it conform to the constitution of the United States. It was not altered at all in regard to the subject of slavery. In this Congress were twenty or thirty of the men who had assisted in framing the constitution of the United States. If any men could be supposed to know what that constitution meant they were the men. And yet we have been told by very high authority that that law was not in accordance with the constitution of the United States.

Now I wish to refer to some decisions of the highest judicial tribunals of the United States. I will read from Howard's Reports; volume ten; page ninety-six, in the case of Strader, et. al., v. Graham:

"It is undoubtedly true, that most of the material provisions and principles of these six articles (Ordinance of 1787,) not inconsistent with the constitution of the United States, have been established law within this territory ever since the ordinance was passed; and hence the ordinance itself is sometimes spoken of as still in force. But these provisions owe their legal validity and force after the constitution was adopted, and while the territorial government continued, to the act of August 7, 1789, which adopted and continued the ordinance of 1787, and carried its provisions into execution, with some modifications, which were necessary to adopt its form of government to the new constitution."

Therefore when I say that the ordinance of 1787 was re-enacted by the Congress of the

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United States, by the act passed August 7, 1789. I do not speak without authority. I speak from the book, the highest authority in the United States, Franklin Pierce to the contrary, notwithstanding. This ordinance was, therefore, re-enacted by the Congress of 1789, in all its essential provisions. It was again re enacted when Indiana was formed into a territory, and admitted as a State; when Illinois, Michigan, and Iowa, were formed into territories, and admitted as States; at each of these different periods, by different Congresses, and under different administrations, this ordinance was recognized, referred to, and declared binding upon those respective territories.

This was Democratic doctrine, then. I ask you, Mr. Chairman, as an honest and candid man—I ask every member of this convention—is it Democratic doctrine now? No, sir; it has been utterly discarded. New lights have arisen, new interpretations to the constitution have been rendered, and the Democratic doctrine of to-day is far different from what was Democratic doctrine with the fathers of the republic. Yet this doctrine has been recognized and voted upon by Congress from 1789 down to 1853, for in 1853 the territory of Washington was organized, and this same principle is incorporated into its organic act. Thus for more than half a century, this principle has been recognized and affirmed, by different Congresses, and under different administrations; almost every prominent man in the United States being on record, at one time or another, in favor of this restriction in relation to slavery in the territory of the United States.

Now for the proof. First, I refer to acts of Congress passed during more than half a century. Second, I refer to the decisions of the Supreme Court of the United States.

Now, I ask, if this is Democratic doctrine at the present time? If it is not, then the present Democratic party is not a national party, for they have discarded those national principles upon which the constitution is based, and under which Congress has acted, and the Supreme Court has decided, time and time again.

Gentlemen asked here last night, what right has Congress to forbid the introduction of slavery into the territories of the United States? As Stephen A. Douglas has said—every citizen has an inalienable right to move into any of the territories with his property of whatever kind or description. That is the Democratic doctrine of the present day—that every citizen, of the United States, has a right to go into any of the territories of the United States, with any property he may hold, of whatever kind or description. Was that Democrrtic doctrine years ago? Most assuredly it was not.

Now what is the reason the citizen cannot carry his property into the territories of the United States without the permission of Congress? Because whenever you wish to do that which is contrary to nature and to common law, you must have positive enactment to that effect. But it requires no positive law for that to be done which is according to nature or common law. The reason why a man cannot go into the territories of the United States, with his slaves, without the permission of Congress, goes back to the time when God created man in his own image. The reason is just as old as that. The Almighty never created a slave. No being, black or white, bearing the image of God, can be a slave until made so by his fellow man. And if you wish any part of the territories of the United States to be slave territory, you must enact a positive law making it such, because by nature it is not so. But you do not have to enact a positive law to make your horse a chattel, for it is so from the first. But it requires a positive law to that effect, to make a fellow-being a chattel, because by nature he is not so.

This is the reason that slaveholders have no right to go into these territories with their slaves, because the fathers of the Constitution did not give them that right. It requires a positive law to give them right, because it is contrary to the laws of nature. As Judge McLean says—Congress has no power to allow slavery in the territories, because there is no provision in the Constitution giving them that power; and Congress cannot go beyond the Constitution and make that lawful which is not lawful by nature. Congress, cannot, therefore legislate slavery into the territories; but it is their bounden duty to forbid it there, upon the ground that man is by nature free, and the territory is free territory; and to be made otherwise requires positive law. There is no authority for them to pass that law. Without the provision in the Constitution in regard to the rendition of fugitives from labor, where would you obtain your authority for passing the fugitive slave law? And to make any territory slave territory you must have just as positive authority for it as you had to pass the fugitive slave law. Why could not this fugitive slave law be passed without the authority to pass it being incorporated into the Constitution? Because when a slave gets beyond the lines within which the law makes him a slave, he is free, and cannot be returned to slavery without violence or force. In the Constitution authority was given to Congress to enact the fugitive slave law; and I think it is a very hard law that they did pass. And they cannot pass a law making any territory slave territory, because they have no authority under the Constitution to do so.

Now is man, by nature, free, or am I mistaken in that position? I do not make this assertion upon my own responsibility. I appeal to the judiciary of my country for support in that position. Let me read a few extracts from the judicial reports of this country. In Walker's Reports, Miss., page 36—Harvey et al., vs. Decker & Hopkins—it was held—

"That slaves, within the limits of the northwest territory, become freemen by virtue of the ordinance of 1787, and can assert their claims to freedom in the courts of Mississippi."

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This goes to show that the ordinance of 1787 is not only binding in the north-west territory; but a slave taken there can go before the courts of Mississippi and assert his claims to freedom, and those claims will be enforced.

In the case of Rankin v. Lydia, 2d A. K. Marshall's Reports, 487, the court of appeals of Kentucky said—

"In deciding the question [of slavery] we disclaim the influence of the general principles of liberty, which we all admire, and conceive it ought to be decided by the law as it is, and not as it should be. Slavery is sanctioned by the laws of the State; and the right to hold slaves under our municipal regulations is unquestionable. *But we view this as a right existing by positive law, of a municipal character, without foundation in the law of nature, or the unwritten, or the common law.*"

That is clear and to the point. With such a decision as that, that man is by nature free, and that the state of slavery is an unnatural state for a man to be in, we have the foundation of the doctrine that, Congress having no power to legislate slavery into the territories, it cannot go there, as it is contrary to the law of nature, the unwritten law and the common law.

Now, in regard to the assertion that the ordinance of 1787 is still in force. I would refer to the Missouri Reports for the year 1836, page 350, Rachel v. Walker. It is stated—

"That the act of Congress, called the Missouri Compromise, was held as operative as the ordinance of 1787."

This decision, in which reference is made to the operation of the ordinance of 1787, is not from an abolition or free State, but from a slave State, where, if their judges would suffer themselves to be influenced upon this question of slavery, it is natural to suppose that influence would be in its favor. And yet it is asserted in these slave States that man is by nature free; that slavery is a municipal regulation, bound and confined by the territory over which the law authorizing slavery has effect. In the case of Prigg v. The State of Pennsylvania, 16 Peters, 611, the Supreme Court of the United States held that—

"The state of slavery is deemed to be a mere municipal regulation, founded upon, and limited to, the range of the territorial lands."

There are other decisions upon this subject, but I will not take up the time of this committee by reference to them. Slavery is declared to be a municipal regulation, founded solely upon legal enactments, and cannot go beyond the territory where the law exists. And according to this doctrine, the moment a slave steps into a free State, he is free, and no power can take him back to slavery, except under the fugitive slave law, which the constitution of the United States gave to congress the right to pass.

I wish now to refer to the ordinance of 1820—the Missouri Compromise—which has attracted so large a share of the public attention for some years past. I wish to show, in regard to that act, that the present democratic party is not a national party, but that they have departed from the faith of their fathers. I have referred heretofore to the acts of the men who framed the constitution, to the acts of Congress passed under it and approved by democratic administrations, one after another, forbidding slavery in the territories. And if that is not now the doctrine of the democratic party, then they are not national, for they are opposed to the constitution as interpreted by those who made it.

Now, in regard to the ordinance of 1820—the Missouri Compromise act. By whom was it passed and approved? If you will examine Mr. Benton's Thirty Years in the Senate, on page 8 volume first, you will find that that measure was a democratic measure, and approved by Mr. Monroe, the President of the United States, and every member of his cabinet. It was a measure asked for and carried through by the South. It contained democratic doctrines then, forbidding slavery north of 36° 30′, in the territories.

Is that democratic doctrine now? If not, then that party has departed from the faith.

Now, let us see who, in the Senate of the United States, voted for that Missouri Compromise. Let us see if they were men who would be likely to vote understandingly. Let us see if they were democrats of the old school, men who spent their days in the service of the democratic party, men the best part of whose lives had been consecrated to their country's service as statesmen and philanthropists, men who stood as high in the public estimation as any men ever stood in the United States. And if I show that such men as these voted as democrats for this measure, that it was approved and sanctioned by a democratic president, and if I then prove that the present democratic party do not hold to the doctrine of this act, at this time, then I prove that the democratic party of the present day, are not the party of the fathers of the constitution.

Who voted for the Missouri Compromise in the Senate of the United States? James Barbour and James Pleasants, of Virginia; democrats, no one will doubt; Jesse B. Thomas of Illinois; John Elliott and Freeman Walker, of Georgia; John Gaillard and William Smith, of South Carolina; Outerbridge Horsey and and Nicholas Van Dyke, of Delaware; Richard M. Johnson and William Logan of Kentucky. [Did not the old Tecumseh-killer understand what democracy was? I have never heard it doubted.] And William R. King and John W. Walker, of Alabama. Was not William R. King a good democrat? His life was spent in the service of his party. Did he not understand the constitution? He had taken an oath to support the constitution of the United States. Was he acting in violation of that oath when he voted for that measure? There were also William Pinckney, of Maryland; Nathaniel Mason and Montfort Stokes, of North Carolina; Jonathan Roberts

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and Walter Lowrie, of Pennsylvania; James Noble and Walter Taylor, of Indiana; William A. Palmer, of Vermont; and John F. Parrott, of New Hampshire.

Were these men wicked or insane, or were they honest and clothed in their right minds, and fully understanding what they were doing? These are the men who voted for the Missouri Compromise, and carried it through the senate of the United States. Nearly every one of these men were democrats—democrats of the old school—men whose devotion to their country and to the rights of man was never called in question. And when the ground is now taken that the Missouri compromise is not a constitutional measure, you must say that these men did not know what they were doing, but advocated a measure contrary to the constitution of the United States, which they had sworn to support, and contrary to the principles of the democratic party, if it is contended that the present democratic party is the true party.

This ordinance of 1820 has been enacted time and time again by Congress, and different courts have asserted the principle that Congress had the right to legislate upon the subject of slavery in the territories. In the Supreme Court of the United States, 1st Peters', 511; The American Insurance Company *et al.* vs. 356 bales of cotton, Canter, claimant, Chief Justice Marshall delivered the opinion, that

"In legislating for them (the territories) Congress exercises the combined powers of the general and State Governments."

It seems that, according to the modern doctrine of democracy, even Chief Justice Marshall did not know what the constitution meant, or he would not have asserted that Congress had that right. Now, Iowa, as a State, can forbid the existence of slavery here; no one doubts that.

Then it follows that the Congress of the United States can forbid the existence of slavery in the territories. If not, then Chief Justice Marshall did not understand what he was doing when he rendered the above decision. And yet as a jurist, Justice Marshall, perhaps, stands unequalled. And he said that Congress exercised over the territories the combined powers of the general and state governments. Chief Justice Taney has delivered an opinion upon the same subject, and he qualifies the right of congress to legislate upon this subject of slavery in the territories.

Now, if the present Democratic party are occupying the ground of the old Democratic party, if they are, as they claim to be, *par excellence* the national party of the country, what will they do with the resolutions of the different Democratic state conventions, and of the legislatures of the most thoroughly Democratic states, which were passed a few years ago? I believe scarcely any Democratic northern state but Iowa, failed to declare the doctrine that Congress had the right to prohibit the introduction of slavery into the territories. It was done in New Hampshire, Michigan, Ohio and in other states. That was Democratic doctrine a few years ago, and it is precisely where the Republican party stands now.

I say, then, looking to the history of the constitution, the action of congress under it, to the decisions of the supreme court time and time again, to the actions of the different state legislatures and of different Democratic conventions, that the present Democratic party has wandered far from the doctrine held and inculcated as democracy at that time, and that the Republican party stands now, where the fathers of the constitution stood then. If this be the case, the Republican party is now the national party, and the present Democratic party stand committed to the support of an institution which is local, and decided to be so by the courts, and which they now attempt to make national.

I know that some of them deny it, and I rejoice that they do, for then I can justly entertain the hope that they will see the error of the course they are pursuing, and the mischief which will inevitably result from the success of their party. The present Democratic party maintain that because slavery in the territories is not forbidden in the constitution, therefore it is sanctioned by the constitution; in short, that slavery is national and freedom is local, and that slavery has a place in every territory until it is forbidden by the people thereof.

Another step in the progressive Democracy of the day is, that the people of a territory, in their territorial capacity, have no right to forbid slavery there.

This is the doctrine of nine-tenths of the Democratic party; that the people of a territory have no right to forbid slavery among them until they are called upon to adopt a state constitution. Deny it, as gentlemen may at the north, it is the doctrine of the party with which they are now acting, and which elected its candidate for the Presidency in the last canvass. The position which the present Democratic party occupies, then, is that slavery is national and freedom local, a position which is anti-democratic, and which is a wide departure from the doctrine of our forefathers upon this subject.

I have been frequently reproached by my former political friends for not acting now with the democratic party, to which I once belonged. But I tell them in reply, that I cannot, as an honest man, support the doctrines they uphold; and I refer them to the acts of the party in vindication of my position. Gentlemen of the democratic party ask with an air of triumph, who desire to extend slavery into the territories of the United States? And they deny, most emphatically, that the party with which they are connected, are pledged to any such policy. But deny it as they may, the truth is, the democratic party stands at this time as the pro-slavery party, acting with the slaveholders of the south to extend the area of slavery over ter-

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ritory now free. But individual members of the party say that they are as much opposed to slavery as I am. That may all be true; but then they are acting with a party that does want to extend it, and whose leaders seem to have that object, and that alone, in view.

It was said last evening, in the course of the debate, that there was a time when the whig and democratic parties were battling with each other upon well-defined national principles, and there was then no North and no South; but that the South were now to be found arrayed on the side of the democratic party. This is true; but what does it prove? It proves that southern States that formerly acted with the whig party, are now with the democratic party, and that the democracy of the present day is not that of former days, but they have deserted their old and time-honored principles. We might point you to the individual names of Toombs, Benjamin, Stephens, and a host of the whig leaders of other days, who are now enrolled in the ranks of the democracy. Why have they taken this course? Because that party asserts the principle that the constitution carries slavery into the territories. Democrats of the North then, are acting with a party which maintains the principle that the constitution carries slavery into the territories. We of the republican party hold, with our forefathers, that that sacred instrument upholds no such doctrine; but, on the contrary, the very reverse; and that those who hold such a doctrine, are acting against its very letter and spirit. Can you blame a man then, as a democrat, for having turned from a party which has proved so recreant to the principles of its founders, and of the great and good men of former days?

A man's orthodoxy upon the slavery question must be fully established before he can be received into favor by the democracy of the present day; and the only question asked, in regard to an aspirant for an office at the hands of a democratic administration is, "is he right upon the slavery question?" The only question asked in the Senate of the United States at this time, when a nomination is made for any appointment abroad is, "is he right upon the slavery question?" And if he is not, he is summarily rejected. This was not made the test in former periods of our political history. The democratic and whig parties occupied positions upon this question very similar, as you will see by referring to the resolutions of the different State legislatures and conventions.

It has been said, upon the other side, that the republican party are in favor of a dissolution of the Union, while the democratic party are the only party that are trying to uphold it. I ask you, who has asked for a dissolution of the Union? Is it the party with which I have the honor to act, as an humble representative? No; it is the democratic party; and time and time again, have they threatened to dissolve the Union, in the event of the success of the republican party. But the republican party said that the constitution had been in operation for more than half a century, and they would take good care that the rabid pro-slavery men, who compose the majority of the democratic party, should not dissolve the Union, and they would take good care to prevent the execution of any such silly threat as that uttered by one of their southern leaders, that "they would march to the seat of government and seize its archives and rob the treasury."

As I said before, this question of slavery has no business here; but it is here, and I am ready to meet it. The doctrine maintained by the leading journals of the democratic party at the South is, that they have a right to hold slaves without regard to their complexion. This is a pretty long stride in the march of progressive democracy, and one which, with my present feelings, I can never endorse. I do not care how poor and degraded a man may be, he is still one of God's creatures, and has the germ of manhood within him, which if awakened may lead to noble results. There is not a democrat here, who would acknowledge the right of a slaveholder to enslave a white man, however poor and degraded he may be. But the leading journals of the party to which he belongs, and which he claims to be a national party, advocate the right to enslave the white as well as the black man, and that slavery is not confined to color or complexion; in short, that "wealth makes the man and the want of it the fellow," and that he who has but little of this world's goods must be condemned to labor for a master, and not for himself, wife and children. Ask me to endorse such a doctrine! No, never!

The doctrine, as I said before, has been endorsed by leading journals of the Democratic party, openly and boldly displayed at their masthead, that the slave-holder has as good a right to make a slave of the poor white man as of the black man. And these journals have heaped upon the laboring classes of the north the most approbious epithets. Nothing could be more offensive, to an independent mind, than the language used by the leading democrats during the late canvass upon this very subject. Among other things they said, that a man who did his own work was not fit to associate with gentlemen, and they denominated the industrious classes of the north as a "parcel of greasy mechanics and filthy operatives." You, Mr. Chairman, and I, as well as many others of this convention, I apprehend, would be placed in that category, for we work for our bread with our own hands. From all such democrats as these, I pray Heaven to deliver me. This is the position to which the democratic party are now reduced—a far different position from that so proudly occupied by them in other and better days. And they cannot with truth call themselves the national democratic party, as once they could.

But gentlemen upon the other side ask, why all this sympathy for the negro? Because sym-

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pathy with our fellow-beings is one of the noblest attributes of our nature, and it should be called into exercise wherever we may find oppression and distress. And this feeling for our fellow-beings in oppression, whether they be black or white, demands that we should say to slavery, "thus far shalt thou go, and no farther." In the exercise of this feeling, we have the undisputed right to exert our constitutional power to stop slavery where it is. Who can read the thrilling scene enacted at Cincinnati a few years since, and not sympathize with that poor but fearless slave mother flying across the river with her little children during the most cold and inclement season of the year, in order to escape from the cruel bondage of a man clothed in the image of his God, and who claimed her as his slave? She reaches, with her children, the house of a friend, but her owner, who has followed in hot pursuit, comes clothed with power to arrest her, and take her, with her children, back into slavery. What can she do? There is no way of escape; there is no one to sympathise with this poor woman, apparently forsaken by all. To save her children from being remanded back to slavery, she sees but one way of escape, and that is, at the dagger's point. With the rapidity of thought she seizes the fatal instrument, and stabs her children to the heart, and death puts a stop to any further cruelties that this slave owner might exercise upon these poor children of a slave mother. I have often thought, as in the case of old Uncle Toby, when he swore an oath, that in consideration of his many good deeds, the recording angel, when he came to read it, would drop a tear and blot it out forever; so in the case of this poor slave mother, when the recording angel should record the crime of murder against her, he would, in consideration of the cruelties which she had suffered, and the trials of her position, drop a tear and blot it out forever. Believing in a just God, I would rather stand before my judge in the place of that woman, than in the place of her master. If ever sympathy was justly called into existence, it was so in that case. And this affords a good illustration of the evils growing out the fugitive slave law, which the present democratic party would carry into every territory of the United States.

Democrats here say that they do not believe in slavery, that they would denounce its oppressions as readily as I do, that they are inflexibly opposed to its extension into territory now free. And yet they support the party that goes for extending it all over the country without any limit. Is this not true? Will not facts in the political history of the country prove it to be true? Who comprise the leaders of the present Democratic party? Which are the States that voted with that party? And when you come to answer that question, does it not become apparrent that that party is acting with the slaveholders? If the President nominates a person to an office, a pro-slavery Senate will never endorse that nomination unless he is right upon the slavery question. I cannot and will not endorse such doctrine as this, and hence I do not act with the present Democratic party, and I rejoice that I do not.

But I would say to gentlemen upon the other side, when they talk so much about the amalgamation of the races, and the necessity for an exclusion of the African race from the State, to what will their principles lead them, and how are they to apply them to persons who may have nine-tenths of Anglo-Saxon blood in their veins and one-tenth African? Would you exclude such persons from the right of suffrage? Would you drive them from the State as you would so many wild beasts? Is this right? Is there no sympathy in the heart of man for his fellow man? You need not go out of this chamber to find a person who can tell you of a case that happened in good old Kentucky, where a well educated woman was driven from the State because she had African blood in her veins, although she was married to a white man, and although she had been educated at the North by her master—her own father. Such was the force of opinion when it became known that she was a slave, that she was driven from society and rejected by her husband. I know a case, in my own neighborhood, of a gentleman in Louisa county, and who now lives in Chicago. He is a very distinguished machinist, and has made several very important inventions. He had been in the habit of voting for years in Louisa county, but one day they refused his vote because he had negro blood in his veins, and he did not vote. His father was as white as any of us, and whether there was African blood in his veins or not, I do not know. I mention this to show the Democrats to what their principles will lead them when they carry them out to their fullest extent.

I have understood that it was the wish of some gentlemen in the Convention to prevent the negro from holding property in this State. But I would ask them, if they entertain any such intention, to put it away as contrary to the best feelings of human nature? I hope that no gentleman, who has any spark of feeling left in his breast, will consent to the introduction of such a policy as this.

But what has all this to do with the question now before us, gentlemen may say? Why, simply this, that the question of the extension of slavery has been brought into this Convention, and I contend that the Democratic party are acting, as a party, in every phase of this question of slavery, to extend this curse all over the country, and to make every part of our national territory slave territory, where men may go and plant their feet upon the necks of slaves, there to remain forever.

Kansas I hope will be a free State. Our democratic brethren, before the election, said that there was no danger of its being a slave State. But how has that danger been averted, if averted it shall be? By the activity and energy which the Emigrant Aid society displayed in sending out true and tried friends of freedom to

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settle upon her soil. This is the opinion of pro-slavery men who have been there. I recollect reading a letter from a pro-slavery man, who had been out to Kansas, and returned to Virginia, from which State he had emigrated. It was published in the "North-East," a paper printed in that State, in which letter he says, that Kansas would have been a slave State without any trouble, if it had not been for the Emigrant Aid society. That is the opinion of other pro-slavery men who went there for the avowed purpose of making it a slave State. Our democratic friends say that all the blood-shed in Kansas has been caused by sending abolitionists in there. I maintain that they have saved the territory probably from being polluted with the curse of slavery, and if Kansas becomes a free State, I say to my republican friends, thank God, take courage, and press on, until victory shall crown all our efforts, and until the last remnant of barbarism shall be driven from our country.

I started out in the first place, in my remarks, to show that the democratic party was a sectional party. I have shown you by the course of democrats upon this question in former times, that they acted very differently from the democracy of the present day. The Missouri Compromise was a democratic measure; but it was repealed by the democracy of the present day. Therefore in this respect there is not a consonance between the action of the democracy of former times, and that of later days. I could go into details, and give you the views entertained of this measure by some of the most distinguished members of the democratic party of the present day, if time would permit. I will simply give you the opinion of one of their most distinguished leaders.

Hon. James L. Orr, of South Carolina, in a letter to Hon. C. W. Dudley, says:

"Since then they (the democratic party,) have actually repealed the Missouri Restriction, opened the Territories to settlement, and enabled us, if the south will be true to herself, to aid in peopling Kansas, to form another slave State. In 1843 a man would have been pronounced insane, had he predicted that slavery would be introduced there by the removal of congressional restrictions."

I do not expect to live many years longer; but I do hope that when I look forth for the last time upon the earth, I shall look upon a land that is free. One thing will console me in my last moments; if my country is enslaved, no human being will find my vote recorded in favor of slavery. It will be a pleasure in my last moments to think that I have done what I could to stop this inhuman traffic in human beings.

Mr. CLARK, of Alamakee. The able remarks made by the gentleman from Muscatine, [Mr. Parvin,] who has just taken his seat, will render it unnecessary for me to be very lengthy in the remarks which I shall make upon this occasion. I rise more for the purpose of defining my position, and entering my protest against the position assumed by those who speak upon the other side of the question, than from any idea, that I shall be able to throw any light upon this subject; especially after the able arguments to which we have listened.

I was educated as a democrat, of the strictest sect, too; and in favor of principles, upon which I find that our government has been administered from the time of the adoption of our present constitution until within a few years past. If I am mistaken upon this point, I shall be very thankful if gentlemen upon the other side will convince me of my error, and I will act with them still.

The gentleman from Marion, [Mr. Gibson,] last evening, laid down the position, that the democratic party had always advocated the same principles from the formation of our government; and that the republican party was but the party of a day. He said farther, that the democratic party was a national party, and that the republican party was a sectional party. These are grave statements. Let us examine for a moment, and see whether this position be true or not. In investigating this question, I shall necessarily travel over the same ground occupied by the gentleman from Muscatine. In the first place the gentleman from Marion says that at the last election the republican party received its strength from the north, and, therefore, he argues that they are a sectional party, from the fact, that in their national convention there was not a representative from the slave States. And he says, furthermore, that in the democratic national convention, which nominated their candidate for the Presidency, every State in the Union was represented.

These statements all look plausible upon their face; but how are the facts? Let us look for a moment and see how they are. What made the republican party a sectional party? Was there any thing in the platform, was there any thing in the call of their convention, which was sectional? Was there any thing which they adopted, which was not in strict accordance with the principles of our republican institutions? Was there any thing that was not in strict accordance with the principles of the Wilmot Proviso and the Jeffersonian ordinance, to which allusion has been made in the progress of this discussion? An invitation to act with them was thrown broad-cast all over the land, north, south, east and west, to every man of every party, who could unite upon a general platform to stay the onward and aggressive course of slavery, to restrain slavery within its present limits; or, in other words, to keep the territory of the United States free to the free-born citizens of America. If this was sectional, then was our government based upon sectional principles.

As has been shown by the gentleman from Muscatine, the principles of our government were based upon the supposition that slavery was sectional and liberty was universal or national. The principle was acknowledged, even before the adoption of the present constitution,

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that Congress had jurisdiction over the territories of the United States. It was then the policy of our government to stay the onward march of slavery, and to hem it within the limits which it then possessed, so that it should not be allowed to step outside of its local existence in the States where it had a foothold. They said that slavery, or involuntary servitude, should not be allowed in the territory then denominated the north-west territory, and which, at that time, comprised all the territory that the United States possessed. This principle in our government was older than our present constitution.

There is another view to be taken of this question, to which I wish to allude for a moment. The members of the Congress that passed that ordinance, were members of the convention that framed the constitution, under which we now live, one body sitting in New York, and the other at Philadelphia. Congress, after the adoption of the constitution, saw fit to re-enact the ordinance of 1787. They did so, and it has been adhered to since. If this be true, I ask how can the republican party be called sectional when the call which they issued to the people of the whole United States, was to meet in convention upon the common ground of opposition to the further extension of slavery as laid down by the ordinance of 1787? If this were a sectional convention, then all I have to say is, that our forefathers who framed the ordinance of 1787 were sectional. But this was not the case, and the republican party convention was national in its character, for they laid down the general principles of national liberty and freedom, in contra-distinction to slavery.

But the gentleman from Marion, [Mr. Gibson] says that there was not a representative in it from any of the slave-holding States. Grant it; and what does it prove? It merely proves that while the republican party was national in its objects and designs, the southern States were sectional. Why did not the South come into that convention, which was based upon the general principles of equal rights to all sections of the United States? It was for the simple reason that they were sectional, and they advocated principles which were antagonistic to the principles laid down in that call; for the reason that they had declared that they would carry slavery into the territories of the United States, and for the reason, furthermore, that they had perverted our government to their own ends. That is the reason why they did not come into our convention.

If these facts do not prove that the South was sectional, let us examine one step farther. At the convention which assembled at Cincinnati, we find that the democratic party of the North met the South and proclaimed the right of every man to carry his property of every kind into the territories of the United States, and denied the right of Congress to pass any law to prevent it. Which of these two parties I ask you was sectional? The republican party laid down the position that Congress had the right to make all needful rules and regulations for the government of the territories, and to prohibit slavery therein; while the pro-slavery South, with their associates of the North, in the Cincinnati Convention, denied that Congress had the right to legislate for the territories of the United States. We claim that these facts show that the position we take is true, that slavery is sectional and that liberty is national, and that the democratic party, having acted with that sectional party in the South, is identified with it, has adopted its principles and is prepared to carry out the measures which they consider as vital to their schemes of extending slavery.

The gentleman from Des Moines [Mr. Hall] says that the Democratic party is not in favor of slavery. I know we cannot find a Democrat here who will say that he is in favor of it. They all say they are opposed to it. But let us go back a few years, and ascertain from the history of the past what the Democratic party was, and what they are now in favor of. Slavery, as I said before, was prohibited in all the territories belonging to the United States in 1787. That principle was acted upon and recognised as law by every party which was in power from that time up to the adoption of the Missouri compromise.

Upon that subject it is necessary, and it will be proper, to spend a few moments, to ascertain whether that principle, or that position, was true or not.

Up to the time of the adoption of the Missouri compromise, no party and no administration, so far as I can ascertain, ever questioned the right of Congress to legislate for the territories of the United States. In doing that they claimed to do it under the constitution of the United States.

Chancellor Kent uses the following language upon this subject, in this first volume of his Commentaries, page 383:

"With respect to the vast territories belonging to the United States, and which are not distinct political societies known to the constitution *as states*, congress have assumed to exercise over them supreme powers of legislation. Exclusive and unlimited power of legislation is given to them by the constitution, and sanctioned by judicial decisions. The general sovereignty existing in the government of the United States over its territories, is founded on the constitution, which declared that 'Congress should have power to dispose of and make all needful rules and regulations respecting the territories, or other property belonging to the United States.' In the Michigan territory, congress have, by the acts of 7th of August, 1789, and January 11th, 1805, adopted and applied the principles of the ordinance of the confederation congress of the date of the 13th of July, 1787. This ordinance was framed upon sound and enlightened maxims of civil jurisprudence, and the judges appointed in that territory hold their offices during good behavior. In the Arkansas territory a great-

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er subjection is created to the will of the President of the United States.

"It was held in the case of the Canal Company *vs.* Railroad Company, [4 Gill & Johnson's Reports, 1] by the Court of Appeals in Maryland, that Congress acted in the government of the District of Columbia and other districts, not as a local legislature, but as the legislature of the Union; and in the case of the State *vs.* New Orleans N. Company, [11 Martin's Reports, 308, 309] it was held that the legislature of the Orleans *territory* could grant a charter binding on the future state of Louisiana. So, in the case of Williams *vs.* the Bank of Michigan, [7 Wendell, 539] the New York Court of Errors adjudged that the power to incorporate a bank was within the scope of the general powers of territorial legislation conferred upon the Michigan territory, by the act of Congress of January 11th, 1805. The government of the United States, which can lawfully acquire territory by conquest, or treaty, must, as an inevitable consequence, possess the power to govern it. The territories must be under the dominion and jurisdiction of the Union, or be without any government; for the territories do not, when acquired, become entitled to self-government, and they are not subject to the jurisdiction of any State. They fall under the power given to Congress by the constitution. This was the doctrine and decision of the Supreme Court, in the case of the American Insurance Company *vs.* Canter. [1 Peter's U. S. Reports, 511, and see also, 3 Story's Commentaries, 193, 198, 536."]

This principle, that Congress had a right to legislate for the territories has been recognized and acted upon by the courts of several of the States and by the Supreme Court of the United States. And the democratic party recognized and acted upon this principle until within a few years past, up to the time of the repeal of the Missouri compromise. Even the chairman of the Committee on Territories in the Senate of the United States—Stephen A. Douglas—ten days before he proposed his bill for the organization of Kansas, recognized it in a report in which he says Congress has a right to legislate for the territories. But all at once he, and the party with which he acted, forsook the democratic creed, the creed in which they were educated, and which had been the policy from the first foundation of the government up to that time. I ask you, then, of how long existence is the present democratic party? I deny that it is the democratic party of former years. They have forsaken the faith of their fathers, and although they have retained the name of the democratic party, they do not retain its principles. It is not, then, the democratic party of former years. From the position they once took, they at once turn a complete summersault, and they now take the position that Congress has no right to legislate for the territories of the United States.

All at once that new-fangled doctrine of squatter sovereignty is brought into existence, in favor of which, not a sound argument can be adduced. This principle was incidentally, but very tenderly and carefully alluded to by a gentleman upon the other side, last evening, when he referred to the right of the people to govern themselves. What is the principal of squatter sovereignty, when carried out to its final result? It would reduce men to having no government at all in the territories, or else a government which makes them entirely independent of the government of the United States. Take the position, for a moment, that Congress has no right to legislate for the territories, that the people are sovereign there, and to what will it lead? They may create a king, they may pass laws establishing a monarchy, and they may ask for admission into the Union. If they have the right to make their own form of government, where is the power in Congress to refuse them admission? Suppose Congress has the power to refuse them admission with such a constitution and such institutions, grant them the principle of squatter sovereignty, and what would be their next step? If they have a right to make an independent form of government, and Congress has no power to legislate for them, they have a right to ally themselves with any other despotic power in the world. That is the principle of squatter sovereignty, carried out to its legitimate consequences, and as gentlemen cannot fail to see, it strikes at the very foundation of our existence as a government.

In this connection it will not be amiss, perhaps, to read an extract from Morris' Iowa Reports from a case there reported, in which a decision was made bearing upon this question. I will only read that portion of the case which has reference to this subject.

"But it is contended, on the part of the claimant, that slavery is not prohibited in this territory—that the act of 1820, above mentioned, is a mere naked declaration, requiring further legislation to render it operative—that it merely imposes a duty on the states and territories to be formed within the prescribed limits; but that, without further action on the subject, the law has no sanction, and, consequently, no force. This position, we think, cannot be maintained. Congress possesses the supreme power of legislation in relation to the territories, and its right to prohibit slavery, at least in relation to slaves subsequently introduced, is doubtless legitimate. Has that right been exercised in relation to this territory? The language of the act of 1820, in relation to the district of country in which this territory is embraced, is, that slavery therein 'shall be and is hereby forever prohibited.' This seems to be an entire and final prohibition, not looking to future legislative action to render it effectual."

The decision of the Supreme Court of this State, reported, 1 believe, by Judge Mason, is directly in point, recognizing not only the right of Congress to legislate in the territories, but recognising the binding force of this Missouri Compromise, going the whole length upon this

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subject. But why need I argue the case further? Out of the mouth and the action of the new styled Democratic party will I judge them upon this question. One of two things is positively true. Either Congress has the power to legislate in the territories, or it has no such right. If Congress has not the right she can make no organic law for the territories; she can make no law imposing any duty upon the future legislatures of the territory. If she has not the right to legislate, she has no power at all over them. Where, then, are the men who vindicate the principle of squatter sovereignty in the Senate of the United States? What do we see them do? We see them bring forward a bill and pass it, without any objection upon this ground, assuming the right to legislate for these territories; not only the right to legislate upon unimportant matters, but as to the manner in which the people of the territories may form a State Constitution, for the future government of the territories under a state organization. They not only assume the right to legislate in an ordinary capacity, but to lay down the fundamental laws to which the legislation of the territory must be made to conform, or it will be null and void. I say, then, that the very action of the Democratic party is in violation of the first principles of squatter sovereignty, by which they claim to be governed.

But they did not stop there. What did we see next? When the organic law was made in Kansas—when a vote of the legislature outraged both human and divine laws, violating the fundamental principles of the rights of man, we find the fathers of squatter sovereignty, its right-hand champions in the Senate of the United States, advocating the passage of a bill repealing the legislative acts of Kansas; not only claiming the right to legislate for the territories, but to override their legislative action after it had gone into operation under the organic law of the territories. I ask the gentlemen how they can defend this position. Either Congress has the right or it has not; and if they say that Congress has not the right, how dare they assume to exercise it as a right?

The gentleman says that he is not in favor of slavery. Is that true? Let us see for a few moments. Previous to the repeal of the Missouri Compromise, the Supreme Court of the United States had recognized the right of Congress thus to act. The supreme courts of several of the States have recognized that right in Congress. The Missouri Compromise, which existed over thirty years, excluded slavery from the vast territory which it covered. Now who were they who repealed that prohibitory law which kept slavery out of that territory? It was the Democratic party. Now I ask you, why did they repeal that law? Why did they trample down that great compact which had been forced upon the North?

Let us go back a few moments, if you please, and look at that contract, and I will be very brief. That compact was forced upon the North by the South. The law was passed under the administration of Mr. Monroe, I believe. It was created when we had a Democratic representation in Congress. We had a Democratic Senate, a Democratic House of Representatives, a Democratic President and a Democratic Cabinet. It was a law for which Martin Van Buren stood forth as a noted champion. The North were unwilling that Missouri should come into the Union with a slave constitution. They acted in good faith, and upon the principles established in the early ages of the government. They were unwilling that another slave State should be added to the Union. Martin Van Buren, who, until within a few years, retained the confidence of the Democratic party, who was a confidential adviser of Andrew Jackson, and retained, until lately, the confidence of Thomas H. Benton, was one of those who took the ground against the admission of Missouri as a slave State. The North was determined that Missouri should not come in, and the South that she should come in, as a slave State. And then what did we hear, and where did it come from? The cry was—give us Missouri as a slave State, or we will dissolve the Union; and it came, not from the North, but from the South. It was a new cry in those days, and it frightened the North. Then, as a compromise, as a means of settling this great and agitating qestion, the North yielded, and the Missouri Compromise was adopted.

It was a hard bargain for them. The south has ever since got the lion's share, while the north has the jackal's portion. That compromise, in the course of time, became of inestimable value to the territories north of the line. The south had obtained their consideration in that bargain. They had got Missouri into the Union as a slave State, and being there, she could not be turned out; and in the lapse of time her remaining portion of the compromise became comparatively of little value; and then she turns around, and looks with an insidious eye upon the portion of the north, and demands that her tools in the north should repeal that compromise. We find the democratic party coming into the traces. We find them coming forward of their own motion, and not only endorsing the principle, but, not content with that, actually helping the south to carry that measure through, trampling under foot that compact. They go further, and claim this repeal as a democratic measure, and require all who will not come into the traces to step out of the ranks of the modern democratic party.

Now what did they do this for? What did the south want it for? Will it do to tell an intelligent people that the south did not wish that compromise to be annihilated for the sake of carrying slavery into those territories? Will it do to tell them that it was only an eye-sore to her, which she did not want to look at, which she did not want to see upon the statute book? Will it do to say that that was all the south wanted? Never. The people of the north would look upon that as an insult offered to

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their judgment and their intelligence. What was the wish of the south? It was to carry slavery there. It was one of the many branches of that grand scheme concocted by John C. Calhoun, making slavery national, and liberty sectional. It was done for the purpose of trampling down the rights of the north. It was done for the purpose of gratifying the avaricious wishes and dispositions of the slave-holders of the south, who had cast their greedy eyes upon the fair fields of Kansas, and coveted them. They wanted Kansas for a slave-pen, and they demanded that it should be given them, even to the jeopardy of the Union of the United States. The object of the south was to carry slavery there; and the democratic party came into the traces, and helped them to carry it there. They tore down the barriers; and they are most clearly chargeable with all the consequences which may flow from it.

But, say the apologists for that measure, we did not legislate slavery into the territories. True, they did not. All they did was to pull down the barrier which was keeping it out. It would be just like this case: My neighbor has a large field, flourishing with grain, and I see a herd of cattle flocking around that field, trying to get in. I pull down the bars, and pass along about my business. Presently I am charged with turning the cattle into my neighbors field. No, I did not do any such thing, I say; I only pulled down the bars; that is all I did. Now, sir, that is all the democratic party did. They only pulled down the barrier which kept slavery out of the territories.

Is not this a true version of the case. Have not the facts which I have detailed become historical facts? Have they not been responded to, to a certain extent, by my friend upon my right, [Mr. Parvin]? These are democratic measures. They attempt to justify them, so far as I ever heard any attempt to justify them, simply from the fact that they wish to carry out the principles of squatter sovereignty, those principles already alluded to, and I will not travel over that ground again. But I contend that there are not in existence any such rights as those of squatter sovereignty. It is a mere lame excuse. It is the miserable shield for a wicked and a dastardly act. This is my honest conviction.

There was another position taken by the gentleman last night, [Mr. Hall,] to which I wish to refer. He laid down the broad position that the democratic party are not in favor of slavery. He took the same position with every democratic speaker I have heard upon the stand; before he got through he undertook to defend slavery. He undertook to defend slavery last night. He drew comparisons between the slaves of the south, and the free laborers of the north. Like every democratic speaker I have ever heard, he commenced with being opposed to slavery, and concluded with an attempt to justify it. Now I do not know that they are not opposed to slavery; but if the action of the democratic party in relation to slavery, is opposition, and if such opposition brings about such results, all I have to say is, in God's name, gentlemen, cease to be opposed to slavery, so long as your opposition brings about such results as we have witnessed in the United States for the last few years. If your opposition to slavery leads you to act with the slave power, to coalesce with them, to become their suppliant tools, to carry out their schemes, cease to oppose it. Such opposition only adds strength to the slave power, only adds strength to the extension of slavery in our country, only arrays so much the more force against the true friends of republican institutions, only arrays so much the more force against the party who stand to-day upon the principles of Jefferson, and Washington, and those illustrious patriots who have gone before us.

The gentleman says again that Washington was a slaveholder, that Jefferson was a slaveholder; and he quotes some language of Jefferson attempting to prove that slavery is a true condition of man; and quotes also from the Farewell Address of Washington, warning the people of the United States against sectional jealousies and quarrels. This may be all well enough in its place, but he did not happen to think of the quotation from Jefferson, in which he says with regard to slavery—"I tremble for my country when I remember that there is a just God in Heaven, and that his justice shall not sleep forever." His zeal in opposing slavery did not lead him to quote any thing upon that side of the question. It was all upon the other side.

The Union will be dissolved, he says, unless the republicans cease this agitation. The Union is to be the price of what? Our liberties? The true free-born sons of the North who go into the territories of the Union, cannot go there free and untrammelled, if they are to come into contact with the degrading influences of slavery—that principle is to destroy our Union, if we are to believe the gentleman from Des Moines, [Mr. Hall.] Is it so? Has it come to this? Is the slave power so bound to slave territory and their aggressive policy that they will really dissolve the Union unless the North yield? In the first place, Mr. Chairman, that cry is too old. It has, in my opinion, ceased to scare even old women and babes. The South are not sincere in it. The South dissolve the Union? And for what? To perpetuate slavery? They are not such fools. They are not such madmen. Let the South dissolve the Union, and that dissolution once effected would ring the death knell of the last slavery that could exist in the United States. Can the South keep in slavery four millions of human beings without the aid of the North? It is impossible. The supposition is preposterous. The slaves of the South are only kept in subjection now, for fear of northern bayonets, from the fear of the United States government. It is perfect nonsense to talk to us about the dissolution of the Union.

I am prepared to go one step further. What

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was this Union created for? What was our present constitution adopted for? What were its objects? We find those objects stated in so many words in the very commencement of the constitution:

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

These were the objects. The framers of the constitution were so careful, so guarded in their language, so desirous to secure those objects, that they would not leave the construction to be merely placed upon the words,—which from the very nature of man, must be imperfect—contained in the different sections; but they start with the declaration of their objects. It was their object to secure the blessings of liberty to themselves and their posterity. And let it be borne in mind that the constitution rests upon the foundation of the Declaration of Independence, which was formed when the word "liberty" had such an influence over the three millions of people then inhabiting the United States, that it armed them with almost superhuman skill and power. and brought them forth victorious after a seven years bloody war with one of the most powerful nations of Europe. "Liberty" meant something in those days. And the people of the United States, when they endorsed that preamble, meant what it said. That was the object; and the constitution is the superstructure upon that foundation. What made the constitution dear to the American people? The parchment constitution, in its intrinsic worth, is no more than a piece of blank paper. It is useless, senseless, meaningless. It is only the blessings which it secures to its possessors which make it valuable. Now if we take the position of the gentleman from Des Moines, [Mr. Hall,] that in order to keep the constitution in existence, we must tear out from it its vitality; if we take the position that in order to keep this Union together, we must trample under foot the spirit and meaning of the constitution; we render the constitution no longer sacred to the people of the United States; and from being an object of love and admiration, it becomes an object of detestation. The very moment that constitution can be perverted into an engine of injustice and torture, an engine of corruption and oppression, and the people of the United States are led to regard it in that light, they will detest it as much as they have ever admired it.

If then the gentleman can prove to me that the Union, based upon this constitution, can only be perpetuated by the advancement of the principle which the South and the democratic party now proclaim to the world, and the extension of slavery, I am prepared to meet the gentleman there, and to say that I, for one, do not care how soon that Union goes by the board. I do not say this in the name of the republican party; I say it for no man but myself. I say that I love the constitution; and I love it for its intrinsic value. I love it because I believe that when it is rightly construed it secures to every man these inestimable blessings which the God of nature gave him. But if the position of the gentleman is susceptible of demonstration, if the constitution can be so perverted as to become an engine of torture and oppression, it has lost its value to me. In other words, if the South can take that instrument in their hands, and can carry slavery by it into the territories of the United States; if they can overrun the northern States, as they claim they have a right to do under that constitution, it is no longer a constitution for me. Where will they stop?

This leads me to another point; where will the South stop in this matter, that South with which the Democratic party of the North are acting? This inquiry leads me to go back again for a few moments, if you will bear with me. There was a time when the Democratic party was a party defending state rights. There was a time in the history of the country, when the Democratic party stood forth as the peculiar champion of state sovereignty and state rights, and was jealous of the power of the central government. The time was once when there were two parties arrayed against each other in this country, one called the Federal party and the other the Republican party; for the simple reason that the Federal party believed that the constitution should be adopted because it did not confer any power which would be dangerous to the states, while the other party, claiming to be the states' rights party, was opposed to them; and even that stigma thrown upon the federalists, has been handed down to us as a cant phrase within my own remembrance.

And now what do we find the Democratic party advocating, and whom do we find them acting with? They are acting with the South; and that, too, when the South demands—what? Let us look for a moment.

They demanded that the fugitive slave law should be passed. Was there any need of that law being passed? Was there any necessity for it, to carry out honestly and faithfully the provisions of the constitution? I say, no, and I am willing to meet any man upon that position at any reasonable time. But that one act, in itself, was the most aggressive and overreaching in the strife toward the centralization of power by the general government that has ever been adopted by any congress of the United States. What does it do? It assumes the right to override the state sovereignty. It assumes the right to trample down the writ of habeas corpus, that bulwark of English liberty. It assumes the right to trample into the dust the right of jury trial, that palladium of American institutions. It is urged by the South, that it was not a party or a sectional measure. Northern men of both parties came into the traces. We find Clay and Webster, as well as Democratic men, advocating

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and voting for the fugitive slave law. It did not pass either as a Whig or a Democratic measure, for it was purely a Southern measure. But how stand the parties now? We find it claimed as a Democratic measure, endorsed by their platform; and every man who would be considered a good Democrat is required to subscribe to its faith.

What is it that has wrought these changes? What is it that has driven the independent and fearless Democracy up to this mark within the last few years? The state of New York used to be Democratic; but now the Democratic party is neither the first nor the second, but the third party in the State. What has wrought this change?

Now let us look at the question: what other principles do we find the South claiming, that party with which the Democratic party of the North claims to act? We find them advocating the principle that this property of the United States, and therefore the territory of the United States, being common property, purchased with the common treasure and blood of the country, or acquired as a common government, is open to all. They claim that while the North take their property to those territories, it would be unjust to exclude the South from taking their property there. They therefore claim at the hands of the Democratic party, to exercise that right. The Democratic party have acquiesced in it, and say that Congress cannot legislate slavery out of the territories.

They have gone even further in relation to Kansas and Nebraska. Mr. Mace, of Indiana, in the House of Representatives, when that question was up in Congress, proposed an amendment, providing that the legislature of the territory of Kansas might have the right to exclude slavery from that territory if they wished. That proposition was distinctly offered and distinctly voted upon. And the South, with the Democrats of the North, voted down that proposition, and thus denied their own principles of squatter sovereignty. That very party which assumed the position that Congress could not legislate for the territories, assumed, also, in framing an organic law for the territory of Kansas, to refuse to grant to that territory the right to abolish slavery there if they wished to do so; and they established the principle that the South should have the privilege of carrying slavery into the territories of the United States, at the expense and cost of the liberties of the people. This was a part of the measure.

They claimed the right, I say, to carry their slaves there as property. Now I will admit that the proposition is apt to stagger one at the first blush. To the superficial reader or observer it looks very plausible. It is true that if the North have the right to carry their property there the South should have the same right; but we lose sight of the great principle which underlies all government, when we superficially come to the conclusion that therefore the South have the right to carry their slaves there. In reality, the North has no privileges which are not granted to the South. By the law of nature and nature's God, and by the common law of our land, I can hold property in a horse, an ox, or any kind of property but land, without any organized act, without any legislative act, without any municipal guaranty or right. I hold it independent of this. Nay, I go further, and say, they have no right to deprive us of this right. Is it so when we come to talk about property in man? Clearly not. By the laws of nature and nature's God, by the institutions of the country, and by the common law of the land, by the operation of the constitution which is carried into the territory, wherever our flag floats or the United States government extends, by those laws men cannot hold property in their fellow men. He can only hold it by local laws, positive local laws. Now, suppose that the State of Missouri passes a law permitting me to hold property in a fellow man. Where does it give me the right to hold that property? Does it make my fellow man my property anywhere out of the State of Missouri? Are the legislative enactments of Missouri of any force beyond the limits of the State? I apprehend not. I am not compelled, even if I am a citizen of Missouri, to hold any property in my fellow man; and if I do it at all, I do it voluntarily, knowing the liabilities and disadvantages incurred in investing my money in that kind of property; knowing that, as I hold it under the laws of Missouri, I can only hold it where those laws are operative. I know, or ought to know, and am presumed to know, that I cannot take that property out of the jurisdiction of that State and continue to hold it by virtue of the laws of that State. The consequence is, that the moment I pass the dividing line, the moment I pass beyond the juirsdiction of the State, whose laws have made my brother my property, he stands forth disenthralled, emancipated, a man.

Mr. Chairman, the citizen of the North has no right to hold property in his fellow-man and to carry him there. That right does not exist. Nor has the citizen of the South any such right. Men cannot be carried there in the shape of property, either by the North or by the South.

Mr. SOLOMON. The aid societies of the North have transported men to Kansas for the purpose of moulding the institutions of the country.

Mr. CLARK, of Alamakee. Granted, for the sake of argument; but it does not refute the position I have taken. They do not carry them there as property; and when there they do not assume to hold them as property.

Mr. SOLOMON. They are the very worst kind of property.

Mr. CLARK, of Alamakee. Perhaps so, in the opinions of the new-fangled democracy. They still have the scales upon their eyes; and these new-fangled ideas seem to have infatuated them, verifying the saying—"whom the gods wish to destroy, they first make mad." Now let us look a little further. The North have no right to take property in man into the territo-

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ries; they cannot take it there. Then they are upon an equality. Coming from the North or the South, from any part of the Union, they go there upon an equal footing, as brothers. But the very moment that you establish the other principle, that the slaveholder may take his property in man there, we do not go into the territories upon an equality. A privileged class is established there. The citizen of the North, nurtured under free institutions, is compelled, in going there, to live under the degrading influences of slavery.

There was another remark made by the Achilles, the great champion of the democratic party here, which perhaps deserves a passing notice. He says that our glorious Union, and the constitution of the United States, carry protection to every human being in every land, where our flag floats. He left out one little item in that assertion. We happen to have in our own land a population a little larger than the whole population of the United States at the commencement of the revolutionary war, a population of six millions of human beings who are now deprived of the very first attributes of humanity, in our southern States, notwithstanding the protection of the constitution and the Union. By the local laws of their States, they have had their manhood torn from them: the image of God in which they were created, has been stripped from them, and they have been dragged to the earth and trampled under the iron heel of slavery, until they are perhaps more degraded sometimes than the brutes themselves.

They tell us that if we do not have this restriction, the slaves will overrun our country. We do not see them in this State, except when flying from southern bondage, and on the way to the North, flying from the bloody talons of the American eagle perched upon this constitution, to settle down under the protection of the shaggy mane of the British Lion; seeking there the protection of which we rob them. What a comment upon the glorious Union, and the glorious constitution which my friend lauds to the skies, forgetting the wrongs perpetrated in half of the States of the Union under this constitution. There is virtue in that constitution; and when I make these remarks I do not make them for the purpose of throwing any odium upon that constitution. The constitution is right The constitution, if carried out correctly, would be right; but that constitution has been perverted by the leaders of the great democratic party,—I do not mean the great mass of the party, for I believe their hearts throb for freedom as much as they ever did, and as much as the republicans. But devices are resorted to in order to keep them from following the impulses of their hearts. The constitution is right; the great American heart is right; but the fault lies in that designing class in the community who are determined to root out the very first principles laid down in the constitution, and to make it in fact valueless and worthless.

In what company are my northern friends found at this time? Is it with republicans? Is it with democrats? Is it with that party who advocate and adhere to the principles that led our forefathers forth to battle? Go into the southern States; and what do you find there? The liberty of speech, the liberty of the press are cloven down. Even in Virginia, that Virginia which was once the cradle of liberty, a man cannot speak or write his sentiments upon this question. In our last Presidential canvass there were men there who attempted this, who took papers from the north; but they were obliged to flee from their native land, for no other fault under the sun, but daring to believe that the self-evident truths of the declaration of independence were truths, were realities, for no other offence than believing and saying that all men were created equal, for daring to demand for themselves the right to question the rightfulness of the institution of slavery. Public opinion is alive on this subject. The gentleman has talked about the *nigger*. If I hated the negro with as perfect hatred as the gentleman, my principles, and my position, would be the same. But when the democratic party threw out that slur, I say that they misrepresent the people, and stand in opposition to the great eternal truths they claim to be fighting for.

He who in the north would enslave the negro, who would strip the negro of the rights with which he was created, who would rob him of his manhood, would rob you or me. The same principle has robbed millions upon millions of white people. There need not be one sentence of the law of the southern States changed, they can remain as they are now, and yet with a mere change of circumstances the present taskmasters can become the slaves, and the present slaves the masters. The right to enslave the black man is not predicated upon principle. It is predicated upon the power of might over right. It is the power which the tiger has over his prey. Upon no other principle can it be defended. Do you tell me that the slave States are not in favor of the advancement of slavery? You may as well tell me that the sun does not rise in the east, nor set in the west. Their policy, and their very existence requires it. There are about two hundred and fifty or three hundred thousand men in the southern States who are slaveholders. That little band of slaveholders forms a perfect aristocracy. They wield not only the destinies of their own people, their own number, and their own slaves, but the great mass of the white people are kept by them almost upon a level with the slave, almost upon a level with the black man. They have got their iron heels and despotic power fastened almost as securely upon the great mass of the white people as upon the slaves.

The gentlemen upon the other side tell us that we must cease this agitation. We must not agitate the public mind by advocating the principles of the republican party. We must not raise these questions. These questions, we are told, are beyond the reach of human power. They

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are implanted in the very nature of thing. Liberty and slavery are antagonistic principles They can never exist and flourish in the same country for any length of time, any more than oil and water can be made to harmonise. One will necessarily predominate at the expense of the other. Quiet agitation upon this subject! Let the gentleman do it as much as he pleases. Let him place the whole South with the great democratic party of the North, upon the necks of these four millions of people, and upon the principles which are violated in the community every day. Let them bear down upon them with all the force they have got. But I tell you that, bye and bye, in spite of all this force those people will rise up, and there will be a commotion that will hurl aside those men that are at the top, and they will be just as likely to fall at the bottom as anywhere else. It is in vain to think that man can rob his fellow man without having the wrong rebut upon himself.

Gentlemen talk about agitation. All I wish to say in reply, is: Do right; bring our government back to its first principles, and administer it upon those principles; and you need not fear agitation. How many years is it since there were but two great parties, north and south, the democratic party and the whig party? But at the time of the adoption of the compromise measures, in 1850, the famous fugitive slave law was enacted. I notice that my friend who has just spoken, [Mr. Parvin,] although he cannot concur in the fugitive slave law, still seems to recognise it as a law. I cannot, and never shall. It is a libel upon the English language to call it a law. Soon after the passage of the Compromise measures, we find the great whig and democratic parties laying down their platforms, and that they both resolve that agitation shall cease. Both the great parties declared that they would frown upon it; they would put it down; they would discountenance it. They elected their President upon that principle. And how long did the resolution last? It never will be effectual until man obtains the power to repeal the laws of nature and of nature's God. Just so sure as God is omnipotent, just so sure as eternal and everlasting right pervades all his works, just so sure as error, when it comes in conflict with truth, must sooner or later fall, just so sure those who vote contrary to the principles of right, will, in the end, find themselves wanting.

What has occasioned the downfall of other nations? There is no necessity of human government being of limited duration. If our government was based upon eternal principles, and was carried out in harmony with them, it would become as everlasting as the principles themselves. Go back to Rome, Greece, or any of the ancient nations which have flourished, and fallen. Go back and compare them, if you please, with our own, upon the very principle which the gentleman has referred to, the protection which is afforded to mankind under the American flag. Time was when the Roman eagle glistened in the rising and the setting sun. It was then sufficient to protect any man in any part of the world. He had but to declare "I am a Roman citizen," and none dared to molest him. What has become of that great nation? They foundered their bark upon the everlasting principles, the violating of which are now corrupting and absorbing our government. Take any other government which has ever existed upon the face of the earth, and which has ceased to exist, and you will find that the seeds of decay were the same. No human government can ever be permanent, if based upon principles antagonistic to the principles of the great lawgiver; for they have in them the seeds of their own dissolution, which, sooner or later, will grow to maturity and ripen.

Mr. CLARKE, of Johnson, moved that the committee rise, report progress, and ask leave to sit again.

The question being taken, the motion was agreed to.

In Convention.

The PRESIDENT having resumed the chair—

The CHAIRMAN reported that the committee of the whole had had under consideration the subject referred to them, had made some progress therein, and had instructed him to ask leave of the convention to sit again.

The report was received, and leave granted accordingly.

On motion of Mr. CLARKE, of Johnson,

The convention then took a recess until this afternoon at two o'clock.

EVENING SESSION.

The Convention assembled at 2 p. m., and was called to order by the President.

Order of Business.

Mr. JOHNSTON. I desire to make a few remarks, preliminary to a motion which I shall submit to the Convention. I wish to call the attention of the Convention to the point we have reached, and whither we are drifting. We have embarked upon a debate here of a partisan character, which, if continued, will be likely to consume a considerable portion of the time of this Convention. I have no disposition, myself, to stop the progress of this debate. If gentlemen desire to make speeches on national politics, I certainly will not interfere; but I desire, so far as I can, to expedite the real business of this Convention. It was for that purpose I came here.

The gentleman from Lucas, [Mr. Edwards,] made a speech on yesterday—the first speech of a purely partisan character that has been made

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in this body. He was followed by the gentleman from Des Moines, [Mr. Hall,] and the gentleman from Marion, [Mr. Gibson,] with like partisan speeches. This morning we had the same kind of speeches from the gentleman from Muscatine, [Mr. Parvin,] and the gentleman from Alamakee, [Mr. Clark.]

I say I have no disposition to stop the progress of this debate; but there are other matters, I think, which have higher claims upon the consideration of this Convention than a debate upon this matter of the right of suffrage. It will be remembered that this Convention has fixed upon the fourth of next month as the day of final adjournment; and I trust that every gentleman who voted for fixing that day as the time for our final adjournment, will hold inflexibly to it. I do think there is no good reason why we should not be prepared to adjourn at that time. There are matters of importance upon the table of the Convention, to be acted upon by us; for instance, there is the report of the committee on education and school lands; there is the report of the select commitee on incorporations, and the report of the committee on miscellaneous subjects. The report of the committee on the schedule will be laid before us in a short time. All of these reports will require a good degree of consideration.

I know that it is the desire of every gentleman here to get home as soon as possible. I am myself anxious to get home, and I presume every gentleman here participates in that feeling; but I have no doubt there will be ample time to discuss these questions, and carry on the debate which we had last night and this morning. We can do that either at night, or at some other time when we are waiting for other business.

And for the purpose of testing the feeling of the Convention upon this subject, I move that the Convention now proceed to consider, in committee of the whole, the report of the committee on education and school lands.

I will say, in addition to what I have said, that this debate has assumed—and there is no use in attempting to disguise the fact— a purely partisan character; and, so far as the parties represented upon this floor are concerned, there have been three upon the one side and two upon the other engaged in this discussion. The gentleman from Henry, [Mr. Clarke,] confined his remarks entirely to the subject before the Convention; and the gentleman from Scott, [Mr. Ells,] made no party speech. I was about to say that, as a matter of courtesy, the Democratic side of the Convention would be entitled to the floor; but I understand they are willing to forego their claims upon this point, and go on with the report of the committee on education and school lands.

Mr. ELLS. I hope we will not go into committee of the whole upon the subject of education until this report of the select committee on the right of suffrage is disposed of. Several gentlemen are desirous of going on with the discussion which has been commenced, and I hope we will settle that before we enter upon the consideration of any other subject.

Mr. GILLASPY. I hope the convention will take up the report of the committee on education and school lands. I was very much disappointed this morning, at the vote of this convention, by which it decided to go on with this partisan debate, in preference to taking up what I conceive to be the legitimate business of this convention. I hope the party upon the other side will be satisfied with what has been already said. For one, I have had enough. I am perfectly content. And I hope no gentleman upon this floor, of the party to which I belong, will have any desire to take up the time of this convention in discussing party politics here. It seems to me, such a discussion is entirely out of place here, and I hope the convention will take up the business legitimately before it. and which we all came here to transact.

Mr. SOLOMON. It is a fixed and favorite maxim with the political party, with which I have had the honor of acting during the short period of my political life, that all deliberative bodies should confine themselves exclusively to the legitimate sphere of their duties. It has been my experience that the losing sight of this maxim has done more to injure us as a country, through the wrong action of our deliberative bodies, than any other thing. I am, therefore, opposed, in point of principle, to continuing this discussion. I do not wish it to be understood, however, nor do I presume my colleagues will desire to have it understood, that we have any fears of the result of the debate upon this subject, either here or elsewhere. But the fact is that we feel that, under the oath which we have taken here to do our duty to our constituents, we should not consume any more time in discussing this question, which is evidently extraneous.

I felt a delicacy about taking this position against the further continuance of this discussion, from the fact that it was thrust upon us from the other side of the convention. It was with this view that I have withstood the temptation—for there are temptations of that character—when I heard the party assailed which I love, to which I look for the preservation of our civil liberties—I have resisted the temptation to rise in my seat and use my tongue, the tongue my Maker has given me, in the defence of that party and its principles. But I have withstood it so far, and I think I shall try to do it hereafter. I shall vote to turn our backs upon this discussion, because I believe I am bound by my oath to do so.

Mr. WILSON. I cannot permit the remarks of the gentleman from Mills [Mr. Solomon] to pass without some notice. According to my recollection of the proceedings of yesterday, it is not the Republican party that are justly chargeable with having commenced this discussion. As I understand it, this discussion had its origin in the minority report upon this ques-

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tion, submitted by the gentleman from Des Moines [Mr. Hall]. That is the way it came here. That was the moving cause, operating upon the minds of the Republican members of this body, leading to this discussion. And I shall not sit here silently and hear that charge brought against the Republican party, without entering my protest against it. We did not originate this discussion. It was originated by the other side.

On the minority report hangs the whole difficulty, and to it belongs all the blame, if any blame there be, to be attached to this discussion.

Now, I shall vote against postponing this subject and taking up the report of the committee on education and school lands. I want this matter determined. We must go through this discussion, and determine this question at some time, and we may just as well do it now as at any other time.

Gentlemen may talk about evening sessions, but I apprehend that those who talk the most about evening sessions, do not care much about meeting with us then.

I hope the convention will go on with this matter, and if we can get through with it to-day, let us do so, and have it out of the way. We can then go on with the other business.

Mr. EDWARDS. I cannot sit still, and permit myself to be made the scapegoat for what other gentlemen of this convention have done. The gentleman from Jefferson [Mr. Wilson] has given us a true statement as to what led to this political discussion. On yesterday I saw the attempt at political manœuvering upon the part of the Democracy of this convention, to have the elaborate report of the minority of the select committee on the right of suffrage printed by the convention, and sent forth to the world in order that they might make it appear that the report of the majority had been endorsed by this convention, when in fact that special committee had had under consideration the unanimous report of a standing committee of this body. And those gentlemen wasted the whole of the forenoon in calling the yeas and nays, endeavoring to force us to consent to the motion to print. What was the position I then took? It was that if they were allowed to have this report printed, it would be necessary, in the very nature of the case, that this question should be discussed, either this week or sometime before the convention adjourned. If we acted upon it at all we would be compelled to discuss it. And if we printed it, it would, therefore, only delay the business, and prolong the session of this convention.

And when I saw the political manœuvring of the democratic party, to entrap us in that position, I fought it at the very threshold. My object was to bring the question before the convention immediately, allow every member who should think it right and proper to do so, to give his opinions upon it, and thus dispose of it, and go on with our other business. That was the reason that induced me to make the speech I did; merely on account of the political manœuvring of gentlemen on the other side, to entrap us into having the report printed, and thus prolong the sessions of this convention.

Mr. HALL. I must confess that I am astounded with the idea that, by making the report of the minority of the committee, I was the cause of all this debate. That was the last thing I thought of. And it strikes me that such a charge is only an apology, and a very lame one at best, for the course gentlemen have seen fit to pursue upon this subject.

In the first place, this minority report which gentlemen say has caused all this commotion, has not been before the convention. And the argument contained in that report has not been sought to be met by a single gentleman here, nor a word said upon the subject, nor even alluded to, by the gentleman who now says he "saw an attempt at political manœuvring, and met it at the threshold;" not a word, for I listened attentively to the whole of his speech. Why is the report now dragged in as an apology for bursting out into one of the wildest political phillippics I ever listened to in the canvass or in the field? Gentlemen may charge it all upon that report, but when this discussion comes to be printed, they will fail to find any indication in it that it was even thought of until now. They have not discussed the points in the argument of that report; nor did I myself in my remarks last evening discuss the report to any extent at all. I scarcely thought of it during the time I was speaking, nor did other gentlemen here discuss it.

Why, then, this excuse or apology? The gentleman speaks of an effort to entrap the republicans. Now I know that charge is as baseless as the other, and totally without foundation. I know that my political friends here left this matter to the majority during the whole of the day of yesterday, and opened not their lips until last night. And now, after getting up here and going through one of the wildest and most furious assaults upon the party to which I have the honor to belong, the gentleman says it was the report of the minority that led him to do so. Why, sir, he did not say one word about that report. He did not even think of it during his whole speech. That is all gammon. That report was laid silently upon the table, at the instance of a member of the party to which I belong.

A motion was made to print it, which was carried. But gentlemen thought they saw a trap where none was intended, and they reconsidered the vote, by yeas and nays, ordering that printing. But they cannot gag us; they cannot seal the lips of the minority. We still have the poor privilege of complaining when we are unjustly dealt with.

Now, I say the democrats here are not responsible for this discussion; nor have they occupied one moment of the legitimate time of this

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convention until now, in the discussion. All the time they have taken has been at night. This morning they moved that this discussion be postponed, so as not to take up the regular time of the convention, if it was to go on. But no; the time of the convention must be used for this discussion: the whole of it to be used in that way if they should see proper to hold us here, while they went on with their political speeches.

Mr. SKIFF. I am opposed to having this matter laid over, for the purpose of taking up any other subject. I want to have it disposed of as soon as possible. There are two political parties here, the democrats and the republicans; and there are two other parties here, the talking party and the party who do not talk so much. I profess to belong to the silent party. But if the talkers of this convention desire to consume the time of this convention in these discussions, upon the talking party, whether republicans or democrats, must rest the responsibility. I do not suppose a mind will be changed by anything that has been or may be said in these speeches. They are all made, as I understand it, for "the dear people" at large in the the State. I do not believe these speeches will ever be read, or if they are read, it will at any rate be all waste time.

Now, I want this matter disposed of at once. If the talkers wish to take the responsibility of putting off the final disposition of this subject, we silent men will let them bear that responsibility.

Mr. CLARK, of Alamakee. The gentleman from Des Moines [Mr. Hall] says that the democratic party has not consumed one moment of the legitimate time of this convention in this discussion. I do not know what the gentleman means by that. Is not the evening session as much the legitimate time of the convention as the forenoon or afternoon sessions?

Mr. HALL. That is all a quibble.

Mr. CLARK, of Alamakee. It may be a quibble. I may have misunderstood the gentleman.

Mr. HALL. I meant to be understood as saying that we have occupied in the discussion of this question, none of the time of the convention except the night session. It is well known that we have not been in the habit of meeting here at night.

Mr. CLARK, of Alamakee. Well, I have no fault to find with that. But I think that every moment of a night session is as much the legitimate time of the convention, as any portion of the morning or evening session. If the convention meet here, whether morning, evening, or night, that morning, evening or night, is a part of the time of the convention; and any member who, without any propor use or necessity, occupies that time, is chargeable with just as much wrong if it is done at night, as if it was done in the day time. I do not think that kind of sophistry will avail much here.

The question recurred upon the motion that the convention resolve itself into a committee of the whole upon the report of the committee on education and school lands.

Upon this question—

Mr. JOHNSTON called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the motion was agreed to; yeas 18, nays 16; as follows:

Yeas—The President, Messrs. Ayres, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, Seely, Solomon, Traer, Warren and Winchester.

Nays—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Skiff, Todhunter, Wilson and Young.

Committee of the Whole.

The Convention accordingly resumed, in committee of the whole (Mr. Parvin in the chair) the consideration of the report of the committee on education and school lands.

Education and School Lands.

The CHAIRMAN stated the question to be upon the motion of Mr. Wilson to substitute the minority for the majority report.

Mr. TRAER. I would ask if, in committee of the whole, a subject not referred to that committee can be substituted for a subject that was referred to it.

The CHAIRMAN. The chair is of opinion that the substitute is in order.

Mr. TRAER. I think that according to parliamentary law, when a subject is referred to a standing committee, or to the committee of the whole, no other subject can be substituted for it. In case the committee conclude not to agree to it, all they can do is to report it back to the convention, and ask to be discharged from its further consideration.

The CHAIRMAN. There are two reports from the committee on education and school lands. The chair is still of the opinion that the question submitted to the committee is a proper one, to substitute the report of the minority for the report of the majority, both being reports of the committee on education and School lands.

Mr. TRAER. Was the minority report referred to the committee of the whole?

The CHAIRMAN. The chair understands that all that has been reported from the committee on education and school lands was referred to the committee of the whole.

Mr. TRAER. I do not find anything in regard to this point in Cushing's Manual; but I ask leave to read a short extract from Jefferson's Manual.

"But if it be a paper referred to them, they

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proceed to put questions of amendment, if proposed, but no final question on the whole; because all parts of the paper having been adopted by the House, stand, of course, unless altered or struck out by a vote. Even if they are opposed to the whole paper, I think it cannot be made good by amendments; they cannot reject it, but must report it back to the House without amendments, and there make their opposition."

The point I make is, that in committee of the whole, here, we have, in the first place, only the majority report referred to us, as I think the record will show: and, in the next place, it is not proper for this committee to substitute anything else for this report; and, to support my position, I would refer to the fact that, when the committee of the whole come to make their report, the chairman generally says: "the committee of the whole, to which was referred the majority report," &c. Now, if something else is substituted for this report, you cannot report back the subject referred to the committee of the whole, for you have changed the nature of it.

The CHAIRMAN. The committee of the whole have no right to throw aside the whole subject referred to them in the report of the committee on education and school lands. But there are two reports before them, and I think it is perfectly proper to substitute one for the other.

Mr. HALL. Are both reports before the committee of the whole?

The CHAIRMAN. So the chair understands.

Mr. HALL. One is the report of the majority, and the other the report of the minority. We are in committee of the whole to consider the report of the committee on education and school lands, and the majority constitute the committee. There can be no report of a committee unless made by the majority.

Mr. TRAER. I desire to say this: my object in raising this point is, not to prevent the discussion of either of these reports, but that we may have something like a regular form of proceeding. And, in the next place, I believe that a majority of the convention are opposed to this report; and if the committee cannot agree upon this report, and report it back to the convention, I believe a majority of the convention will probably substitute the original article, which I think they are in favor of, with a few amendments, and thus we can soon get through with this matter.

The CHAIRMAN. If it is the opinion of the committee that they have no right to substitute the minority for the majority report, they can rise, report the subject back to the Convention, and ask for further instructions.

Mr. TRAER. I am pretty certain I am correct, and would refer to the record to show that it was only the majority report that was referred to the committee of the whole. I understand the chair holds that both reports were referred to the committee of the whole at the same time.

The CHAIRMAN. The Chair is of opinion that all the reports of the committee on education and school lands were referred to the committee of the whole.

Mr. TRAER. Then I must appeal from the decision of the chair.

Mr. CHAIRMAN. No appeal can be taken, in committee of the whole from the decision of the chair.

Mr. YOUNG. I concur perfectly with the decision of the chair. I shall vote against the motion that the committee rise. But in order to afford the gentleman from Benton, [Mr. Traer,] an opportunity of taking his question, I would move that the committee now rise.

Mr. CLARKE, of Johnson. I would suggest to the gentleman from Mahaska, [Mr. Young,] to modify his motion so that we can make it a test vote upon these two reports. I would suggest to the gentleman to change his motion so that it would be that the committee rise, report back the majority report of the committee on education and school lands, and ask to be discharged from its further consideration. I suppose, upon that motion, we can say all that can be said in favor of the majority report, in comparison with the minority report.

Mr. YOUNG. I do not feel like acceding to the suggestion of the gentleman from Johnson, [Mr. Clarke.] I want the friends of both the majority and the minority reports to have an opportunity to discuss their respective merits. I merely made the motion I did as a test of the decision of the chair. I believe the decision of the chair is correct, and I shall vote to sustain it by voting against the motion to rise. I do not want to cut off discussion at all upon either of these reports.

Mr. WILSON. I would suggest this modification of the motion: that the committee rise and recommend to the convention the indefinite postponement of the majority report. That will bring up the whole question, and the friends of the two reports can discuss them at length.

Mr. JOHNSTON. I would make another suggestion, and that is, that it is probably unnecessary for the committee to rise to settle this matter. The same object can be accomplished by moving to strike out all after a certain word in the first line of the majority report, and insert the minority report. The question will then come up upon the respective merits of the two reports, and we can have a full discussion upon both of them.

Mr. YOUNG. I will withdraw my motion that the committee rise.

The CHAIRMAN stated that the question recurred upon the motion of Mr. Wilson, to substitute the minority for the majority report of the committee on education and school lands.

Board of Education.

Mr. HALL. I was in hopes that this question would be treated with the same degree of deliberation and attention which have been ac-

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corded to other questions which have been presented to this convention. I was in hopes that gentlemen would be willing to consider this subject calmly and considerately, and not decide in advance of the proper time for its consideration. I still hope they will do so.

But the very first motion made in regard to this report of the majority of the committee on education and school lands, before a word has been spoken in regard to its merits, before a section of it had been considered, was to substitute the report of the minority for it. Now I claim that that was not treating that report with ordinary courtesy and civility. It was turning it out as though it were a mad dog that had got into the convention.

Now I ask gentlemen, friends of the cause of education, men who think as much upon this subject as they do upon some others which, in the minds of some here, is of vastly more importance—I ask them to consider this matter a little while, and go through with it. I pledge myself to explain this report, and show that there is, after all, but one feature in the majority report that is not contained in the minority report. And I pledge myself to satisfy any reasonable man that that feature of difference is the efficiency, strength, and character which I give to the system; nothing else. One report, or the system in that report, comes in here lame and sickly; the other comes here strong and efficient. That is the distinction between them.

I only ask that this subject may be treated as other subjects have been treated. I call upon men of this convention, who are fathers and have children, to treat this matter with consideration and deliberation.

I desire to have the opportunity—inasmuch as the first portion of this report was introduced by the majority of the committee at my instance—of giving some explanation of it. This majority report contains, with perhaps one or two unimportant sections, every material thing in the present constitution. It contains all the minority report, except its first section, all that is any way essential. Let me ask again that this report be read, considered and treated as other reports are.

Mr. SOLOMON. I endeavored to get the floor some moments since, in order to make the suggestion, or something like it, which the gentleman from Des Moines [Mr. Hall,] has made. I am really very much surprised at the effort to throw one side so summarily this majority report, and make it depend, for the slight consideration it may receive, upon a mere transient, subsidiary motion. I do not think that report can be regarded by any gentleman, who has read it, as deserving of such a fate as that. There are certainly matters of sufficient importance in that majority report to demand the serious consideration of this body. And I cannot look upon the course, attempted to be pursued here, in any other light than an effort to cast discredit upon this report before it has been examined at all.

A question has been raised by the gentleman from Benton, [Mr. Traer,] as to whether this committee of the whole, as it is now organized and instructed, can take into consideration this minority report. That, Mr. Chairman, depends upon one point, which is to be settled by you and the record. If we went into committee of the whole to discuss the majority report, we must confine ourselves to the discussion of that report; and can take into consideration, under parliamentary rules, no other paper, until we have decided upon that majority report, risen, reported progress, and been discharged by the convention from the further consideration of the majority report. We can then go into committee of the whole, discuss, and treat in the same manner the minority report.

But I understand the chair to hold that we went into committee of the whole to consider both the minority and the majority reports of the standing committee on education and school lands.

The CHAIRMAN. The chair understands that the convention went into committee of the whole to consider the reports of the standing committee upon the subject of education and school lands, and there are two of those reports, the majority and minority reports. The chair may be mistaken in this matter, but that is the impression of the chair.

Mr. SOLOMON. It is important for the friends of these two reports to know which of them is before this committee. I do not believe it is legitimate for us to investigate but one of these reports now. If the minority report is before this committee, so be it. If we have gone into committee of the whole to discuss the minority report, then let us discuss it, and dispose of it. If we have gone into committee of the whole in doubt as to whether we should discuss one or both of these reports, then let us rise, go back to the convention, and find out about the matter.

Mr. WILSON. I believe I am the author of the motion to substitute the minority report for the majority report. I did not submit that motion for the purpose of crowding the majority report out of the discussion, but for the purpose of bringing this matter to a test vote of the committee. That motion does not certainly cut off discussion upon the majority report. Being in committee of the whole, the motion to substitute the one report for the other opens as wide a door as could be opened for the discussion of the whole subject. The friends of the majority report can discuss their report as fully upon this motion as in any other way. There is nothing in that motion to cut off and prevent discussion upon the part of the friends of the majority report. I trust that members will reflect a little hereafter before they bring forward such charges against their fellow members. My only object was to obtain a test vote, and let the discussion end with that test vote.

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Mr. HALL. I have no desire to cast any reflections at all upon the gentleman from Jefferson, [Mr. Wilson.] I suppose he wished to open the discussion in this way. But it does cut off the particular discussion that is desirable. I wish to answer objections which gentlemen may raise to the majority report. I wish to have them go through and consider this matter. I feel that I am fully able and competent to meet all their objections, and satisfy them that if they wish a system of education that is efficient and practicable, that proposed by the majority report is the preferable one. I wish to present the matter in that light. And I have no doubt that the gentleman in looking at the matter in that light, will see the propriety of withdrawing his motion, so as to let the discussion come upon this report, section by section, as it ordinarily does upon reports referred to the committee of the whole.

Mr. WILSON. I can see no advantage to be gained by withdrawing the motion to substitute. If we follow out the course marked out by the gentleman from Des Moines [Mr. Hall] of considering the majority report section by section, we shall be at least partially confined; whereas my motion to substitute one report for the other brings up the whole question. We are not confined to any time of discussion in committee of the whole. The gentleman from Des Moines may discuss the whole subject of education from one extreme to the other, and can proceed upon this motion to substitute, to show the advantages of his report, as fully as by taking it up section by section.

I believe it would save time to take this test vote, and it was to obtain that advantage that I submitted that motion.

Mr. MARVIN. I would really like to know how the matter stands in relation to this subject.

If we went into committee of the whole on the report of the majority of the committee on education and school lands, then I shall strenuously oppose any effort that may be made to bring any other subject illegitimately before this committee. I do think that unless we have the two reports before us, the motion to substitute is wrong. If the two reports are before us, then the motion is unnecessary. If I can understand parliamentary authority, I believe the motion is entirely out of order.

The CHAIRMAN. The journal says that "the report of the standing committee on education and school lands was referred to the committee of the whole." It does not say whether that report was the majority or minority report. The chair is still of the opinion that the motion to substitute is in order.

Mr. PALMER. As I understand it, it was the majority report that was referred to the committee of the whole. And I would not look upon this minority report as entitled to any consideration before this body as a report. According to parliamentary usage it is only entertained as a report, only called a report at all, as a mere matter of courtesy to the minority of the committee. And before this convention, or before this committee, I consider this minority report as of no more weight than a suggestion of the individual who made that report. If we are to entertain it at all, I suppose it will be looked upon in that light, as an amendment offered by an individual.

The majority report I look upon as the main thing before this committee at present, and whether we are to amend it or not, is of course a question to be decided by this committee.

Mr. MARVIN. I consider this point of so much importance that I would like to see it decided. I therefore would ask the chair to entertain an appeal from his decision in relation to this matter.

The CHAIRMAN. No appeal can be taken from the decision of the chair while in committee of the whole. The object the gentleman has in view can be attained by the committee rising and referring the matter to the convention. It will take but a few moments.

Mr. CLARKE, of Johnson. I have been informed by the Secretary that nothing but the majority report was referred to the committee of the whole. And I am inclined to think that it would not be in order to refer to the committee of the whole anything else but the majority report.

I want to have this subject fully and thoroughly discussed. I desire to discuss it myself, and I want every gentleman to have the same latitude of discussion that I desire myself. This is a subject in which I feel a great interest. Although I have heretofore supported the motion to substitute the minority for the majority report, it has been from no disrespect to the gentleman who made this minority report [Mr. Hall]. I had no desire to treat him with any disrespect.

I think that upon a motion of this character we can better discuss the general principles of the two reports, and come to some definite conclusion, than we can to take up the majority report alone, and move amendments to it. The same general principle is incorporated in both reports. The only difference is that one report is more in detail than the other.

That is, perhaps, the great objection to the majority report.

Now, we can discuss the question as to which of these two reports is the most feasible; and upon the motion to substitute the minority for the majority report, we can have a test vote to determine that matter. If the motion to substitute prevails, then the majority report is disposed of, and we can then take up the minority report, make such amendments to it as we see proper, or substitute something else for it, if such be the pleasure of the committee. I only desire that we may have a practical vote upon this matter, that will amount to something.

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Mr. JOHNSTON. I desire to make a suggestion, which I think will extricate us from the dilemma in which we now seem to be placed, in regard to these two reports.

The principal objection to the majority report seems to arise from the fact that it goes more into detail than the other. The principles in both reports, I believe, are the same. The report of the majority provides for a board of education; so, also, does the report of the minority. But the majority report goes on into detail, and states the duties and powers of that board of education, while the report of the minority leaves to the legislature to settle everything that relates to this board of education.

The details of the majority report are contained in the first eleven sections of it. And for the purpose of bringing up this question in a way which will meet the views of all parties, I will move to strike out of the majority report from the first to the eleventh section, inclusive, and insert in lieu thereof, the first section of the minority report. That, I believe, will bring the whole subject before the committee. If the gentleman from Jefferson [Mr. Wilson] will withdraw his motion to substitute the minority for the majority report, I will submit the motion I have indicated.

Mr. WILSON. I have no objection to do that, as the motion of the gentleman from Lee [Mr. Johnston] being of the nature of an amendment, takes precedence at any rate of a motion to substitute for the whole report.

Mr. JOHNSTON. The first eleven sections of the majority report, which I move to strike out, reads as follows:

Section 1. The Educational interests of the State, to include Common Schools and other Educational Institutions, shall be under the management and control of a Board of Education, which shall consist of sixteen members.

Sec. 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been two years a citizen of the State.

Sec. 3. The General Assembly shall district the State into sixteen Educational Districts, and one member of said Educational Board shall be chosen by the qualified electors of each district, and shall hold their offices for the term of four years, and after the first election under this constitution, the Board shall be divided by lot into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the Board shall be chosen every two years thereafter.

Sec. 4. The first session of the Board of Education shall be held at the seat of government, after which, said Board may fix the time and place of meeting.

Sec. 5. The session of said Board shall be limited to twenty days, and but one session shall be held in one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a special session.

Sec. 6. The Board of Education shall organize by appointing from their body a presiding officer, and the appointment of a Secretary and other inferior officers usual in Legislative Assemblies. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the General Assembly.

Sec. 7. All rules and regulations made by said Board, shall be published and distributed to the several Counties, Townships, and such School Districts as may be provided for by said Board, and when so passed, published and distributed, they shall have the force and effect of law.

Sec. 8. Said Board shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools and other institutions of learning that are instituted to receive aid from the School or University funds of the State.

Sec. 9. Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court.

Sec. 10. The Board of Education shall provide a system of Common Schools, by which a School shall be organized and kept in each District at least three months in each year. Districts failing to organize and keep up a School, may be deprived of their portion of the School Fund.

Sec. 11. The Board of Education shall establish one University, which shall be located at some central point in the State, *Provided*, that until such time as such location may be made, and suitable buildings erected, said University shall continue as at present located.

I move to insert in lieu of the above sections, the following, being the first section of the minority report:

"The General Assembly shall provide for the election or appointment of a Board of Education, to be composed of twelve persons, who shall be the Trustees of the University, and shall have the general charge and control of education in the State. They shall have power to appoint a Secretary of the Board, who shall be their exclusive agent, and perform such duties as may be imposed upon him by the Board of Education or the laws of the State."

I do this in order that I may be able to hear both propositions thoroughly discussed, without at the same time, deciding which of the reports I am in favor of.

Mr. SOLOMON. Before the question is taken upon this motion of the gentleman from Lee, [Mr. Johnston,] I would like, for information, to have read that portion of the Secretary's

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minutes which relate to our going into committee of the whole.

The CHAIRMAN. The Secretary will read the portion referred to by the gentleman from Mills, [Mr. Solomon.]

The Secretary then read as follows:

"The convention then resolved itself into committee of the whole, (Mr. Parvin in the chair,) upon the consideration of the report of the committee on education and school lands.

Mr. SOLOMON. With all due deference to the decision of the chair, I submit that, according to the record, we have gone into committee of the whole upon a single report, and that is the report of the majority of the committee on education and school lands, as there can be no report of a committee without the concurrence of a majority of its members. Now in order to discuss either of these reports, as I understand it, the chair has been compelled to decide that the majority and the minority reports together constitute the report of the committee.

The CHAIRMAN. The question is now upon the motion of the gentleman from Lee, [Mr. Johnston,] to strike out from section one to section eleven inclusive of the majority report, and insert in lieu thereof the first section of the minority report.

Mr. SOLOMON. I am making my remarks in opposition to that motion. I do not believe that such a motion is one that is legitimate and in accordance with the object for which we came into committee of the whole. I believe that in accordance with that object, we must confine ourselves to the consideration of "the report of the committee on education and school lands," as the minutes of the Secretary phrases it, which I think is the majority report. If those minutes said that we came into committee of the whole for the consideration of the *reports* of the committee on education and school lands, then we would have both of those papers before us for consideration, and this motion would then be a proper one.

Mr. JOHNSTON. The gentleman from Mills [Mr. Solomon] is evidently mistaken in his view of the motion I have submitted. It is certainly proper for any member to get up in this committee of the whole, and move to amend this majority report, which motion to amend can be to add to the report, to strike out a portion of the report, or to strike out a portion of it and insert some other provision in lieu thereof. I have done nothing more than to move to strike out a portion of the majority report and insert in lieu thereof an amendment which I propose. For the sake of convenience, I have adopted as that amendment the first section of the report of the minority. But we are not acting at all upon that minority report as a separate and distinct report.

Mr. SOLOMON. I admit that the gentleman clearly has a right to move to amend the paper referred to the committee of the whole for their consideration.

Mr. JOHNSTON. That is all that I propose to do by my motion.

The question was stated to be upon the amendment proposed by Mr. Johnston.

Mr. HALL. The section proposed to be inserted by the gentleman from Lee [Mr. Johnston], in lieu of that portion of the report of the majority which he has moved to strike out, is as follows:

"The general assembly shall provide for the election or appointment of a Board of Education, to be composed of twelve persons, who shall be the trustees of the university, and shall have the general charge and control of education in the state. They shall have power to appoint a secretary of the board, who shall be their executive agent, and perform such duties as may be imposed upon him by the board of education or the laws of the state."

This section proposes to leave to the legislature to provide for the appointment of this board. It fixes no time during which this board of education shall remain in office, it fixes nothing in regard to their duties, and fixes no mode of appointment, whether by election by the people, or by the legislature, or by appointment by the governor. This board is left entirely at the mercy of the appointing power, whatever that power may be. It gives the members of this board in reality no position or character above that of mere ministerial officers.

Now I wish to be perfectly candid upon this subject. This section merely provides that a board of education, consisting of twelve members, shall be brought into existence in some manner, not pointed out in the constitution, which existence shall depend entirely upon the pleasure of the power making the appointment, which board of education is to have the general charge of the educational system of this state. If I am correct in my construction of the effect of this section, and I think I am, the members of this board of education will be merely ministerial officers.

So far as they are to have any power to act, so far as they are to have any power to originate anything in regard to the system of education in this state, so far as they are to have any power to give efficiency to the important interests placed in their charge, they are but mere administrators or ministerial officers, for the purpose of executing rules and regulations which may be established by the legislature.

Now I do not believe that a board of education thus constituted, a body of men placed in that position is a proper one to have charge of the educational interests of this State. The educational department of our State is a very important one. It embraces one-half the inhabitants of the State, and for good or for evil it is productive of the most important effects upon our population. I believe that in order to give character, strength, efficiency, nay, even wisdom

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to this department, to this board of education, you must make them something more than mere ministerial officers, something more than mere drudges to carry out the will of the legislature. You must give them duties to perform, You must endeavor to obtain those who have experience in this matter, and engage them to give efficiency to the cause of education. This is the position which I take.

Now let us examine the two propositions as regards the appointment or selection of the board of education. If you adopt the one proposed by the majority, then you have the State divided into educational districts, the people of each district electing their representative to this board. You thus establish the relation of representative and constituency between the officer and the people interested in the cause of education. You thereby give character to the officer by the manner of his appointment, and the position in which he is placed. The very dignity with which you clothe the office gives character and force to the acts of the officer, when he is called upon to discharge his duties. I claim that it is important that this relation of representative and constituency should be maintained between the officer who is to represent this great interest, and the people who are to be affected by his acts. So in that respect the majority report has the advantage.

In the next place, by this majority report you give permanency to this officer, by fixing the time for which each member of the board of education is to serve. You give character to them by giving them authority, when the board is assembled to use the wisdom which experience and observation have given them, and which the suggestions from the various districts may prove necessary. And you give efficiency to the cause by enabling this board, when the suggestions from the various districts are laid before them, to act at once upon them. That is a reason why we should fix the term for which each member of this board is to serve. First make the office elective, and then fix the time at the end of which they shall return to the people. As to the length of their terms of office, whether two, four, or six years, that is a very small matter. All I desire is to establish the principle, in order to give constitutional character and weight to this body when they have once convened.

In the next place the majority goes on to provide the manner in which this board shall conduct itself. It virtually gives it the form and position of a legislative body; that is, they must discuss the subject of education and go through forms of procedure like a legislative body. Their sessions are limited, and they have jurisdiction over nothing but matters pertaining to the cause of education in this State. They cannot appropriate any of the school or university fund; they cannot interfere with the financial system connected with the common schools of this State.

This board of education is made by this majority report, one of the departments of the government of this State, established by the authority of the constitution; a department that the legislature cannot change every year; a department not subject to the caprice of hasty legislation as we frequently find it in the halls of our Senate and House of Representatives. It will have permanency; it will have character: it may be presumed that it will have wisdom, three things which our system of common schools must combine, before they can rise high in the scale of confidence and respect.

Under this minority report, this board will be but the mere plaything and tool of the legislature, to be put in office to-day, and to be turned out to-morrow; to be directed to do this thing now, and another and entirely different thing next week or next month. This board, under this minority report, must look to the legislature for their power, and everything that pertains to their duties.

But if you give them position, influence and character, as this majority report proposes to do, the result will be that they will be men, who will be able to think and act for themselves; they will be men who will have capacity, and whose whole duty will be to look to the cause of education and that alone. They will learn its wants and provide for satisfying them. They will meet twice as often as the legislature, holding their sessions annually. They can and will look to this important and growing interest, and will provide the means to cure any defects there may be, and to urge on the growth of that important interest, without being interrupted or clogged in their movements by bad rules and regulations, established by means of hasty legislation.

Some gentlemen may speak of the expense. But I say this is the cheapest mode of preparing proper rules and regulations to control this important subject of legislation. There are to be one hundred and fifty members in the general assembly, with all the paraphranalia of a legislative body, while in this board of education you will have but sixteen members. One day spent by the legislature tampering and tinkering with this subject of common schools, will cost the State more than a whole session of the board of education. If this board perform their duties as they ought, they will relieve the legislature of much if not all that they have now to do in relation to the subject of education. The discussions and deliberations of the board of education upon this subject will be worth a thousand times more than the discussions of the legislature, where a hundred other matters are struggling for their attention, and this is hurried through without consideration or reflection, and voted upon by men who never devoted their time to the consideration of the subject. By this majority report you separate this subject, you divorce it, from all this variety of topics, subjects claiming the attention of the legislature. You take it from the legislature, to which men are elected upon other and different grounds from those which should be taken into consideration here, and whose minds are absorbed in the con-

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sideration of other topics. This report keeps the subject of education by itself, and places it in the hands of those elected solely in reference to that subject, who have nothing to do with anything but this one great subject.

This is the principle for which I contend. As I observed in a very broken and ill-arranged manner the other day, this plan of the majority will call out men who have the cause of education at heart, who are devoting, as they have heretofore devoted, their lives to this great work. This will be the effect of it. There is enough of talent and ability in this state; there is enough of learning and devotion to the cause of education, if you will only allow it to operate unfettered and untrammeled, to elevate our state above every other state in the Union. But to do this, the whole matter must be turned over to them, and they must have full scope to do what they may see to be necessary.

Two years ago I attended a meeting here called to take into consideration the subject of education, and although it was in the middle of the winter, and the weather was very severe, and unpleasant, yet we had assembled here in the halls of the capitol one of the largest and most respectable conventions that was ever gathered together in the State. Gentlemen of the highest ability and learning were present as delegates from all parts of the State, and had come here as volunteers in the great cause to which they were so much attached; and they manifested a zeal and enthusiasm in this cause, which I regret the legislature has not seconded by their action upon this subject.

The discussions which took place at this convention displayed a great deal of research and information upon the part of those who took part in them. And I was never more entertained in my life by the proceedings of any body, than I was by those of this convention.

But the zeal and enthusiasm which they manifested upon this subject has not been met in the like manner by our legislature. We now propose to turn over this cause to a body that will be composed of men who have devoted their talents and energy, in a great measure, to the promotion of the education of the masses; in order that we may derive the benefit of their learning and experience in instituting a system of education that shall be an honor to this great State, and a blessing to the community at large. I know, and other gentlemen here must know, that in a great majority of instances, persons who have devoted their time to this subject, men of education and reading, who wish to devote themselves to the cause of education, are modest men, who cannot push themselves forward in the political arena, and who prefer to work in a more quiet and unobtrusive field, where they can accomplish more good by the exercise of their talents. Our legislature, from being too much occupied with other matters, have scarcely listened to men such as these, when they have pressed the claims of education upon their attention; and we have hitherto lost the benefit of their judgment and experience in this cause.

The leading feature of this majority report is to divorce and separate the cause of education from the wild and hurried scramble of the political arena, and consign it untrammelled and unfettered to the care of those who are best qualified by experience and education to promote its interests and mature it into a healthful growth. The legislation of the last winter upon this subject is enough to convince any man that this matter ought to be confided to a class of men such as I have designated.

What has been done by the legislature during the last ten years to advance the cause of education? The deplorable condition of our common school system has been acknowledged by all, and we are all agreed in the belief of its utter inefficiency to accomplish the objects for which it was designed. Its organization, the mode and manner of transacting its business, the management of its finances, are such as to reduce the system almost to a state of decay. Two years ago, the legislature, acknowledging their inability to perform the work of revising our school system, authorized the Governor to appoint a board to revise the laws relating thereto. The Governor, acting upon the authority given him by the legislature, appointed a citizen of our own State, and two eminent citizens of other States, who had devoted their lives to this subject, as members of this board of revision.

I have no doubt that Governor Grimes, although he has been abused for making these appointments, acted from wise and disinterested motives, and that he believed that if we could obtain the experience of these men who had devoted their lives to the cause of education, they would be enabled to devise a system which would prove satisfactory to the people. The board met, and, after a great deal of care and deliberation, drew up a report upon this subject which was presented to the legislature; but it met with no favor or consideration at the hands of that body. This is the condition of things at the present time.

It must be acknowledged by all that the general assembly is not the fit body to manage and have jurisdiction of the system of education. Go where you will throughout the state, you will find that it is universally admitted and conceded that the legislature are unable to supply the wants and provide for the necessities of our school system. Shall we, then, as the representatives of the people, adjourn and leave the most noble cause that can engage our attention in the imperfect and unsettled condition in which it has existed for ten years past? I say, No! and I hope gentlemen will reflect seriously upon so important a matter as this, and not, through prejudice, refuse to take a step in advance, that will have the effect, as I think, of giving character and efficiency to a system calculated to promote the growth and progress of common school education in this state.

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The leading principle in the report offered for your adoption, is this: to give character and stability to our common school system, by turning it over to men who are teachers and thinkers, and who have spent their lives in literary pursuits. We have men enough in this State who are abundantly qualified to fill the places which may be assigned them in this board of education. If gentlemen find that the details of the system, as reported by the majority, are insufficient or injudicious, they can be easily corrected. And I ask them to propose such corrections as may be necessary; and if they can suggest a better way of carrying out the details of the system, I am ready to accept their suggestions; but I entreat them to preserve the grand principle embodied here.

I do not desire to elaborate an extended argument upon this question; I will therefore proceed to consider another part of the subject, claiming the privilege of answering objections that may be made to this report.

From the action of this Convention, I understand that the office of Superintendent of Public Instruction will not be retained any longer in this State, and, therefore, some other plan must be devised for the supervision of all matters relating to education. If the Convention shall agree to establish this board of education, the question then comes up, how shall this board be established? How shall it be constituted so as to give strength and efficiency to the school system? That is the question which this Convention is called upon to decide. I do not wish to take up the time of the Convention unnecessarily with this matter, but I feel a great deal of interest upon this subject. Therefore I hope I will be excused if I should consume any considerable time in enlarging upon this matter. It is a question in which I took a deep interest in 1844, as the journals of the Convention then held will fully testify. I was, at that time, a member of the committee that had charge of this subject. I endeavored then to get a provision passed which would give efficiency to our system of common school education; but the State was then poor and had no funds, and the man would have been considered insane who would then have claimed that our school fund, by this time, would have amounted to four millions of dollars. I recollect making an estimate at that time, and I could not, by any calculation, demonstrate that it would be more than two or three millions at the utmost.

I have reflected much upon this subject, and I have endeavored to get the views of other gentlemen, who have had more experience upon this subject than I have. So far as I have ascertained, I find a general concurrence upon the part of these gentlemen in favor of the proposition to give independence, stability and efficiency to the board of education, however it may be created.

Three things are essentially necessary, in my opinion, to the successful operation of the system; and, first, the report provides for the appointment of a chancellor. Gentlemen may cry out at the expense which the appointment of such an officer will entail upon the State. I believe there are a hundred men in this State eminently qualified to take this office and discharge its duties, who would do it without receiving a dollar's salary; men who are engaged in, and devoted to, the cause of education; men who look to the interests of the rising generation, and seek to elevate them by promoting the cause of education among the masses, are not men generally who love money. There have been more sacrifices made by men of that character and of high tone of feeling, than is generally supposed. I do not believe the appointment of such an officer as the chancellor would add a dollar to the expense of the system.

By the establishment of this board you create a tribunal to which all questions that arise in the different school districts may be referred, and from which there would be an appeal to the supreme court, which is made by the constitution the court of last resort. There can be no collision between this board and the legislature, as some gentlemen apprehend, for they do not depend absolutely upon one another. They will each work harmoniously in their proper spheres. What we want is to give to this board character and efficiency, so that they can provide for the wants and necessities which have been so long felt by the people of this State, as connected with the interests of schools and of education generally.

Mr. ELLS. The discussions in which we have been engaged for the last twenty-four hours, Mr. Chairman, I apprehend have disqualified the most of us from taking a calm and deliberate view of this question of education. I am truly sorry that the majority of the convention have felt it their duty to force this discussion upon us at this time, for I believe the cause will be injured rather than profited. For myself, sir, I can truly say, that I am not prepared to give, intelligibly, to this body, my own views and reflections. The majority, however, having decided the question of procedure, I must submit. When I yielded the floor the other day, for a motion to postpone the discussion, I was just entering upon the discussion of the comparative merits of the two reports. I will now resume my remarks, and very briefly state my objections to the plan proposed by the majority. But first, permit me to say, sir, that it was my good or bad fortune to differ with the majority of the standing committee. (And whether good or bad, time will determine.) The result of that difference is embodied in the minority report of the committee on education.

It is generally more agreeable to agree than to disagree with gentlemen in the discussion of any question; but where such agreement would compromise any great good, or violate any fundamental principle, I hold that duty demands an honest and manly avowal of such disagreement.

The motion of the gentleman from Lee, [Mr.

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Johnston,] substituting the first section of the minority report for the first eleven sections of the majority report, necessarily brings up both reports for general discussion in committee of the whole. The first section of the minority report proposes to provide for the election or appointment of a board of education, with powers to appoint a secretary, who shall be their executive agent. The duties of the board are to be prescribed by the General Assembly. The action proposed is simply organic; the details are left to the wisdom of the Legislature. It is contemplated, however, that the secretary of the board will be the best qualified person that can be procured to fill the post of Superintendent of Public Instruction. The remainder of the minority report, in substance, provides for the education of all the youths of the State by a system of common schools, in which tuition shall be without charge, and equally open to all; and for securing the school lands, and school funds of the State, to the formation of the common schools of the State, and the State University. The system proposed is in substance a substitution of a "Board of Education" for the office of "Superintendent of Public Instruction" in the present constitution. Its very simplicity must commend it to all those gentlemen who are opposed to establishing a system of legislation in our constitution. So much for the minority report.

Now, sir, let us take a glance at the plan proposed by the majority, and see if the complex and indefinite powers it proposes to confer on its board of education and chancellor, are not of such a character as to alarm the friends of constitutional reform. What, sir, do they propose? Why, nothing short of creating a second branch of the General Assembly, with powers of legislation entirely independent of the old General Assembly, independent of the Executive of the State, the Governor to have no power to arrest hasty or unconstitutional legislation; all their laws to be interpreted by a chancellor, a pet of this same system. Was there ever, within the history of the American people, a proposition so monstrous as this, proposed by any sane man, in any constitutional convention in any State of the Union? Why, sir, I have examined the constitutions of all the States of this Union, and cannot find any thing that, in the most remote degree, would serve as a precedent for a measure of this kind. And yet, you were told by the gentleman from Des Moines [Mr. Hall,] that the member from Scott is the only person to whom he ever presented his plan, who did not favor it at once. This may be true, Mr. Chairman; but for the life of me I cannot see any necessity for departing from the old beaten track of making laws that can be repealed by the true representatives of the people. I hold to the good old democratic rule, that that which can be done by the many *as well* as the few, should always be done by the many.

The gentleman from Des Moines [Mr. Hall,] has told us repeatedly that he is unwilling to trust the cause of education with the General Assembly; that he wishes to divorce the cause from the legislature. He further states that the educational bill before the last General Assembly failed, because the members were incompetent to legislate upon the subject. Now, sir, I understand that the bill failed from an entirely different reason. I am credibly informed that it was because the bill did not discriminate between white and colored youths, that it encountered such serious opposition from the gentleman's political friends in that body; and there was not time sufficient to discuss and overcome those unjust prejudices. Now, sir, I must confess that I have had my fears that this pet system of the gentleman was intended to foster and perpetuate that same unjust prejudice against educating the colored people of the State. I may be wrong, but after hearing that gentleman pronounce his wholesale condemnation against the colored race of this country, and declare them entirely unworthy of credit, I could not bring myself to any other conclusion.

But aside from this; suppose we adopt this system, and in the end find it not to work well, and to be entirely inadequate to the wants of the State. How, I ask are we to get relief? There is no provision for superceding or abolishing this system, except by the slow process of amending the constitution. Are gentlemen willing to run the risk of fastening an incubus on the sacred cause of education, that may work ruin, and only ruin, for years to come? I trust not. Again: As a question of policy I should feel bound to oppose it, unless this Board of Education and this Chancellor are to be subordinate to the General Assembly and the courts of the State. One of the most important duties that devolve on us, as members of this convention, is to give character to the various offices of the State, by making them truly offices of honor, trust and profit. To this end, I have voted uniformly for the highest salaries. Now, sir, the legitimate effect of dividing the legislative power of this State will be to degrade the office of legislator. The same is true of your judicial system, though not to the same extent.

Again: this Chancellor is to have exclusive jurisdiction in all cases arising under the laws, rules and regulations enacted by this Board. This school system is to extend throughout the State, and controversies will inevitably arise in very remote sections of the State. How are those cases to be tried, and the wrongs of the people righted, if there is no court having jurisdiction within the county or district? Will the Chancellor hold his Court at stated periods in each county, and hear and determine causes, and then hear them again at the Capital of the State, on appeal from his own decisions? Or is an appeal to be taken directly from the Chancellor to the Supreme Court? The mere statement of this case renders it so perfectly absurd that no argument is necessary to convince the minds of gentlemen of its utter impractibility.

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I have another objection to this system, that will have its weight with the people, when they come to vote on the constitution. And that is, the expense necessarily incurred in carrying out the details of this plan. You propose to pay this Board of Education the same per diem and mileage that you pay members of the General Assembly. The Chancellor's salary must be equal to that of a Supreme Judge. Then there are the incidental expenses of each session, which will amount to at least ten thousand dollars, including printing, paper, postage, &c., &c. Are we not hazarding the success of the constitution by loading it down with a dead weight like this?

But this is not all; the Board can hold as many sessions in each year as a majority see proper, for the Governor is required to convene the Board at any time when a majority request him to do so. Now have we any assurance that the members of this Board of Education will not be influenced by the same selfish considerations that the gentleman assures us influence and control the other General Assemblies of the State? For my own part, sir, I am unwilling to trust the majority of this Board with such unlimited powers, when the temptations to go astray are so temptingly held out to them. Human nature is human nature, the world over; and honest men often find themselves influenced in the line of duty, when the stimulus to the performance of that duty is found in the strong box of the government.

After what has been said, it is needless to add that my preference is for the plan proposed by the minority; not because I consider that plan a perfect one, but because it is susceptible of modification and amendments that will not destroy its utility.

I do hope, Mr. Chairman, that the friends of education in this convention will not permit themselves to be carried away from the real objections to the majority report, by the eloquent appeals of the gentleman from Des Moines, [Mr. Hall.] That gentleman, sir, has manifested so much zeal in the advocacy of his system, and avowed himself so strongly in favor of education, that I find it hard myself to keep from yielding to his impulsive spirit, and casting my judgment to the winds. Still, I do hope, sir, that the result of our deliberations will be the establishment of a new era in the cause of education in our young and noble State.

Mr. HALL. I regret that the gentleman from Scott, [Mr. Ells,] the only gentleman who seems to take any part in this discussion, did not portray the effects of his own proposition. It is a great deal easier to tear down than to build up; and to find fault with the plan of another, than to portray the results that will follow from the operation of one's own system. It is a great deal easier to declare what is wrong than what is right.

The effect of the proposition I present is, not to take power from the representatives of the people, but to give it to them; to those who shall make it their sole business to advance the interests of education, and who will have no other duties of a public nature to divert their minds from this one cause. The gentleman from Scott, [Mr. Ells,] says that you cannot have, in such a body as we propose, the concentrated voice of the people to such an extent as you can in the General Assembly. Now I would rather trust eighteen men, whose lives have been devoted to this one subject, than the whole one hundred and fifty of your legislature; for in a large body of that number, there are innumerable other objects that demand and engross their attention, and to which they can only devote a limited portion of time. The same feeling will pervade that body upon this subject, as we have seen evinced here; for it seems like throwing cold water over the convention when we attempt to get up this subject of education. But when we get up the bill of rights, where there is an opportunity to introduce political topics, gentlemen are willing to spend a week upon it. I desire to remove the cause of education from all influences of this nature, and place it in the hands of men who will take a deep interest in its success, and who will be willing to devote their time and attention to its pressing claims.

The gentleman from Scott, [Mr. Ells,] in his report, provides for a Board of Education; but he gives them jurisdiction in indefinite and unmeaning language, and authorizes their appointment without limitation; while, in the report from the majority of the committee, we give form and character to this Board, and present their powers clearly and accurately defined. That is the difference between these two reports, in respect to this Board of Education. The question between us then is simply whether we shall adopt a system which shall be marked by efficiency, or send forth to the people a system which shall be marked by an utter want of this quality, so essential to carry on any great enterprise. There is efficiency in the system recommended by the majority report, for the Board is elected and may organize without the aid of the legislature, and it may exercise its powers without their interference.

The gentleman from Scott seems to regard the plan proposed by us as a great innovation; and he is fearful that we are about to take a step of which we will repent. What is the experience of ten, twelve, or fourteen years upon this subject, during the time we have had our present common school system in force? The cause of education has advanced, not because it has had the hand of benevolence stretched out by the legislature to aid it, but it has advanced in spite of the legislature. The legislature have done more mischief to the cause of education in this State than they have done good.

No person, however little notice he may have taken of the proceedings of the legislature, can fail to see that the cause of schools and of education has reached its present condition here in spite of no legislation in its behalf. It is a

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cause which cannot be crushed, no matter how greatly you neglect it, or how little attention you pay to its demands. Despite the neglect bestowed upon it by the legislature, within the last ten years, it still lives and retains a firm hold in the affections of the people. It will still continue to struggle on and grow under all the difficulties with which legislation may surround it. If it can be left to itself, in the hands of men who would call out its energies, men who would devote their time and talents to develope and perfect it, we should be rendering an incalculable service to the State, and the rising generation.

What I desire to do, is to give full and free scope for the development of the energies and talent of those who may be called upon to perfect our system of school education; and for this purpose we should have a board composed of men who have no other public duties to perform, and who would solely and wholely represent the cause of education.

That is what I desire. I am pleading here the cause of those who cannot speak for themselves; and in their behalf I ask that this subject may be turned over to men who have a desire to elevate the cause of education in this State. It appears to me, if we do our duty like men, and desire to afford the best means in our power for the education of the children of the State, we should at least open a door through which this struggling cause of education may have an opportunity to increase its usefulness, by having its interests entrusted to men whose sole and special duty it will be to take this subject into consideration.

These are my views upon this subject, and they are by no means novel. They are such as will naturally suggest themselves to all intelligent and inquiring minds. I ask you, gentlemen, if you were compelled to devise means for educating the children of the state, what would you do? Would you not call around you men who were honest and zealous in the cause which you wished to advance, and who felt a deep and abiding interest in the promotion of a cause which should lie near the heart of every lover of his country? Would you not give them free scope to pursue their labors entirely untrammelled and uncontrolled by the outside clamors of those who guide their actions by the varying phases which the political arena may assume?

The gentleman from Scott, in his argument, opposed the appointment of a chancellor, as we have provided in this report. There are many questions connected with a system of schools, which, in my opinion, it would be well to leave to such an officer as is proposed here; such questions, for instance, as arise in the division and organization of school districts. It would be better to refer them to an officer, who has been selected for this purpose, on account of his cultivated mind and sound judgment, than to leave those decisions to justices of the peace, who may perhaps live in the neighborhood where these questions originate. I would keep all these questions out of our courts as much as possible; I think by keeping them out it would stifle, in a great degree, the spirit of litigation, and the contentions which are so apt to arise upon these subjects, and which soon lead to neighborhood quarrels.

If matters of this kind are to be decided by a justice of a peace, it will very often happen that he may be partial to one side or the other, and the party aggrieved thereby accordingly takes the case up to the district court, and then the whole district becomes enlisted upon one side or the other, of what was before a neighborhood affair, producing upon both sides an endless state of bad feeling.

I would propose, as the tribunal to settle these questions, a chancellor, who, after examining the evidence carefully, shall examine the rules of law bearing upon the particular questions presented, and determine them accordingly. Such a system would obviate, in a great degree, the expenses attendant upon ordinary litigation, and it would be, in my opinion, the best and cheapest way to dispose of all these questions. Your present system for the disposal of these questions is without efficiency, and has nothing to inspire confidence in the decisions made under it.

The system of education, as now established in this State, should not be allowed to remain in its present inefficient condition, but we should make provision here by which it may be allowed such scope as will permit it to grow and expand under the fostering care of those to whom its interests will be especially dear. We need a board of education who shall hold their offices for a term of years, and whose offices shall not be made dependent upon the mere caprice and the constantly changing minds of the Legislature. They should be men of character and integrity, who will have an object in maintaining the interests entrusted to their charge.

If there are provisions in this report which need correction and revision, I hope gentlemen will go to work and honestly endeavor to make the needful amendments. But I do entreat them to retain the great principle which we have incorporated here—that of giving stability and permanency to the cause of education.

Mr. SKIFF. I am favorably impressed with this plan, but I do not altogether understand it. I understand that, under this system, the board of education has nothing to do with the school or university funds. I like that proposition very well, but I regret that this matter has been presented at this time. I did indulge the hope that the committee would not at this time pass upon it. I move, therefore, that the committee rise, report progress and ask leave to sit again.

The question was taken, and the motion was not agreed to.

Mr. GOWER. I have been trying to get the committee to entertain a proposition which I desired to submit in reference to the common school fund. When I left home it was urged

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upon my attention, by some of the people in my district, that we should, if possible, make some different provision with regard to the disposal of the school fund from that which now exists. They considered that it was, in a great measure, diverted from the object of paying teachers' salaries, and was spent in the payment of officers. This was considered unnecessary. About the time of the creation of the committees, I introduced a resolution, to which I called the attention of the committee on education and school lands. It was similar to that which I now hold in my hands, and which I would offer as an amendment here, hoping that it will receive the favorable consideration of members.

"All monies that have accrued, or that may accrue, to the school fund of this State, under the second section of the ninth article of our Constitution, on education and school lands, shall be received by the Treasurer of State, and all holders thereof shall be required to pay the same to the Treasurer as fast as existing contracts mature. On the first Monday of February of each year, the auditor and secretary of state shall distribute to each county their proportion, and the county treasurer shall draw the same; the amount thus distributed to be drawn by the districts or teachers, as provided by the General Assembly; all to be done by ex-officio salaried officers, and without charge to the said fund."

Mr. CLARKE, of Johnson. I do not think, sir, that this apparent indifference manifested by the Convention, this evening, arises from any want of interest in the subject, but from the fact that we are most of us unprepared to act upon the subject to-day. As has been remarked by the gentleman from Scott, [Mr. Ells,] for the last twenty-four hours we have been involved in an exciting political discussion here. I, for one, feel myself unprepared to go into the discussion of this subject; and I think, important as this question is, in its bearings upon the future prosperity and interests of this State, it would better not be pressed to a hearing at this particular time. With this view, and feeling that the interests of the State, in relation to the subject, will be promoted by laying this over for the present, I move that the committee rise, report progress, and ask leave to sit again.

The motion was agreed to.

In Convention.

The PRESIDENT having resumed the chair,

The CHAIRMAN of the committee of the whole reported that the Convention had had under consideration, in committee of the whole, the subject of education and school lands, had made some progress therein and asked leave to sit again.

The report of the committee of the whole was received, and leave was granted accordingly.

On motion of Mr. TRAER,

This subject was made the special order for 9 o'clock a. m., to-morrow.

Order of Business.

Mr. TRAER moved that the Convention proceed to the consideration of the bill of rights.

Mr. SKIFF. I am averse to having that taken up now, and will move to take up the report of the standing committee on miscellaneous business, as a substitute for that motion. I fear that if we take up the report of the committee on the bill of rights, we shall again be precipitated into just such a discussion as we have had for twenty-four hours past. I do not want to hear any more of that just now.

The PRESIDENT stated that this report was still in the hands of the printer.

Mr. SKIFF withdrew his motion.

Mr. TRAER. My object in making that motion is to take up this subject and dispose of it. I do not see why we need to take up much time with it. Let us dispose of it, and give it into the hands of the Committee on Revision.

The motion was agreed to.

Bill of Rights.

The Convention accordingly proceeded to the consideration of the report of the special committee upon the Bill of Rights.

The first section was read as follows:

"All men are, by nature, free and independent, and have certain unalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness."

The committee propose to amend this section by striking out the word "independent," in the first line, and inserting "equal."

Mr. HARRIS. I wish to make the simple statement that this was not the report of the whole committee, but of the majority of the committee. As one of the members of the committee, I did not concur in that amendment, but presented a dissenting report yesterday morning, in which I stated that I saw no necessity for striking out "independent" and inserting "equal."

Mr. SKIFF moved to insert the wore "politically" before "equal."

Mr. WILSON. It seems to me that it is not true that all men are by *nature* free and politically equal. It seems to me that that would be a clashing between the two sorts of rights. I do not think it would read very well.

Mr. SKIFF. They are not equal intellectually nor socially. They are only equal politically. One person's rights politically are just as dear, and just as sacred as another's. One man has just as good a right to maintain those rights as another. That is the only kind of equality I think there is in mankind, political equality. That is what is meant by this section, for we

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can find no other meaning than that. If it has any meaning it must be that. Men do not look alike, nor act alike. They are not alike in any respect except political equality, and some deny even that.

Mr. CLARKE, of Henry. I do not think the section would be correct with the amendment, merely by the insertion of this word. But if my friends will amend it so that it shall read,

"All men are created free, and are entitled to political equality," I should certainly be willing to vote for it.

Mr. SKIFF. Are not men by nature politically equal?

Mr. CLARKE, of Henry. No, sir; they cannot by nature be politically equal.

Mr. SOLOMON moved a call of the Convention; which was ordered.

The Secretary proceeded to call the roll, which resulted: present, 34; absent 2, as follows:

Present—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Absent—Messrs. Cotton and Johnston.

The PRESIDENT stated that Mr. Cotton was absent on leave of the Convention.

The Sergeant-at-Arms was dispatched after Mr. Johnston.

Mr. TRAER moved that further proceedings under the call be dispensed with.

The motion was ruled out of order, the object of the call not having been attained.

Mr. SKIFF moved that the Convention take a recess for ten minutes.

The motion was rejected.

Mr. JOHNSTON having appeared and taken his seat, further proceedings under the call were dispensed with.

Mr. GILLASPY. I should be very glad if the Chairman of the committee would enlighten the Convention as to the object of this particular change in the Bill of Rights. I might be induced to vote for the change, perhaps, if I knew what we were to gain by it.

Mr. BUNKER. I believe that I first suggested an amendment of this kind to the section. I do not consider it of any very great importance whether this section is in the constitution at all. When any community form a government, they generally determine upon the plan of that government; and as to any abstract principles which may be adopted, they have probably little to do with the government itself. But it appeared to me, as we had undertaken to lay down in this section of our Bill of Rights, a kind of geological, or rather theological substratum upon which to build our goverement, it would be proper for us to get that as nearly correct as possible. It occurred to me that it was not absolutely true in the nature of things, that all men were by nature *independent*, but I supposed it was true that by nature each man had equal rights, whatever power might restrain him from the exercise of those rights. So I proposed that some such amendment as this should be made when the question first came up. I do not propose to enter into the discussion of this matter at all. I do not think it of any vast importance to the constitution, whether this amendment is made or not. It appears to me to be nearer the truth; and as in this first section we appear to be laying down something to declare as our *ipsi dixit*, a fact in nature, although not particularly applicable to government, as we seem to be traveling back, to lay down our opinions of what man is by nature, it appeared to me better that we should make our statement as consistent with the facts as possible.

Mr. SKIFF. I will withdraw my amendment.

Mr. HARRIS. I propose to detain the convention but a moment; but from the position in which I was placed, upon the sperial committee, having been under the necessity of giving this matter some attention, I would like to say to the convention that I examined with some care the bills of rights of the constitutions of all the States, and compared the language of our own with that made use of in the several constitutions, where they intended to define that particular principle of government, that peculiar right of equality that men naturally hold to each other. I find that the particular form of expression made use of in our constitution, is used oftener than any other form of expression, in attempting to define that particular right. It is true that it is not used in all of them, and that the word proposed by the gentleman and recommended by the committee, is used in a very small number; but the word 'equal' is not used so often as the word "independent," in that connection; and this appeared to me as one reason why we should adhere to the expression we have heretofore used. So I attempted in the report I made here, to discuss this matter, and to present the true ground upon which it should stand.

I apprehend, as the gentleman from Washington [Mr. Bunker] has said, that it is of no practical importance, and that no individual will be deprived of any inherent rights, or will acquire any rights which otherwise they would not have in consequence of the change. But I think the word "independent" expresses what we desire to express, better than any word we can make use of. And I think the fact that it has been so often used in the constitutions of other States, is some reason why we should adhere to it; because they certainly had as great a number of members, and as good patriots, as ripe scholars, as we have, in the nation. And we have some reason to conclude that they were pretty generally correct, and this is their verdict as to

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the best word to be used in expressing and defining our political rights.

Another reason for my preference for the word "independent," is that I see no necessity for a change when we do not gain anything by the change. It is admitted so far as practicability is concerned we do not gain anything by the change. As I understand it, we merely wish to give a definition to that particular principle which we believe underlies all our system of government, to define what we believe to be the universal rights of man. Now if we hold to these doctrines, as we certainly do, that the people are sovereign, then in matters of government we certainly hold that they are independent; and I understand that this is what we are attempting to define, that there is no power beyond that of the people when legitimately and properly expressed; and if there is not, they are certainly independent. We are simply desiring, as I understand it, to give some expression to what we conceive to be the rights of man, politically if you please, naturally if you desire to have it so. It does not matter particularly which we are speaking of. Our rights must be limited politically, because we all compromise something in coming together. We understand that man in a natural state cannot be particularly subject to any government at all; but that all governments are made by a compromise, and that the individual rights of the citizen are all complicated for the general rights and well-being of the community. We must make that kind of compromise whenever we undertake to form a government; we must make that compromise which will best secure the entire interests of the whole. And in viewing the question in that light, it strikes me that "independent" is the better word; for the people as a government are independent of any other source of power.

Mr. SKIFF. I objected to this matter coming up before the convention. I was fearful it might lead off into some discussion. I believe the question is now upon changing the word "independent" for the word "equal"; and upon that I move the previous question.

The demand for the previous question was seconded, and the main question ordered.

The question being then taken, by yeas and nays, upon striking out "independent," and inserting "equal," it was agreed to. Yeas 20; nays 15—as follows:

Yeas—The President, Messrs. Bunker, Clark, of Alamakee, Clarke, of Henry; Clarke, of Johnson; Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays.—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, and Solomon.

The next section referred to the special committee was the following:

No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

Upon this section the committee had submitted separate reports.

Mr. WILSON. Mr. Harris and myself, making a majority of the committee, recommend the adoption of that section without amendment, but give different reasons for coming to that conclusion.

Mr. CLARKE, of Henry. There was an amendment pending when this was referred to the committee, which has been reported back in a modified form by one of the members of the committee; and if it be in order I will move that as an amendment.

Mr. CLARKE, of Johnson. I will inquire what became of the proposition pending at the time this was referred to the committee. As I understand it, the action of the committee cannot make an amendment or modify an amendment, or cut off the action of the convention upon an amendment. The majority of the committee have reported against this amendment; but still it seems to me that the amendment is still pending and must be acted upon by the convention, either as it went to the committee or as it is reported back by a member of the committee.

The PRESIDENT. The Chair is of a different opinion. The committee referred the section back in the same shape in which it was referred to them, proposing no amendment or change. The amendment pending when the reference was made, had not been acted upon; it had not been adopted.

Mr. CLARKE, of Johnson. That is the fact; but did the reference cut off the amendment which was pending, but which, in the opinion of the majority of the committee ought not to be adopted?

The PRESIDENT. The Chair is of opinion that it did.

Mr. CLARKE, of Johnson. I suppose that does not preclude amending the section.

Mr. CLARKE, of Henry. I suppose that this would be left in exactly the same position in which it stood when it went to the committee. I suppose the section is before the convention either to amend or to pass it as it is, without amendment. I suppose that the amendment of the minority of the committee is in order.

The PRESIDENT. Parliamentary practice requires that the amendments of the committee shall be first acted upon.

Mr. CLARKE, of Henry. There is no other amendment recommended by the committee.

Mr. WILSON. The tenth section was amended in the convention, and the committee recommended the adoption of the section as amended.

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They recommended no alteration in the section referred to them.

Mr. CLARKE, of Henry. I understand that the only amendment proposed by the majority of the committee has been acted upon.

The PRESIDENT. The amendments of the committee having been acted upon, the Chair is of the opinion that the force of the previous question is exhausted, and that the article is now open for amendment.

Mr. CLARKE, of Johnson. I move to amend the 3d section by adding the following;

"And any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person not interested in the subject matter of the suit, who may be cognizant of any fact material to the case; and parties to suits may be witnesses as provided by law."

Mr. HALL. I am certainly opposed to admitting that into the constitution. It is opening the door to conflict with other portions of the constitution. The constitution of the United States provides that in case of criminal prosecution the accused shall have the benefit of being confronted by the witnesses against him; but he is not allowed to take depositions. This is an innovation and had better be left out. It has been well enough and safe enough heretofore. I hope the amendment will not prevail.

Mr. PALMER. I presume that there is a very material and important principle involved in this amendment. It not only provides that parties to civil suits may be witnesses themselves, may offer themselves as witnesses, but allows defendants charged with crime to become witnesses. I think that would be the operation of the amendment.

Mr. CLARKE, of Johnson. I drew that provision with some care for the very purpose of obviating the suggestions made by the gentleman from Des Moines, and the gentleman from Davis. The proposition is simply this, that any party to a judicial proceeding may use any other party as a witness, who is not interested in the subject matter of the suit, just as the law now stands in relation to interest in a suit. It will not effect the rights of criminals any more than our present laws. Under our present laws a criminal may take depositions against him, because the constitution of the United States gives him the right of being confronted with his witnesses. There is not then any force in the objections urged by either gentlemen.

Mr. SCOTT. The words "who may be cognizant of any facts material to this case," I think are exceptionable. They may not be, but it strikes me that it throws a vast responsibility upon some individual to determine with accuracy whether certain facts are material to the case. I suppose the party has the right to take depositions and testimony, judging for himself what he will require; and then I understand that the court will be the judge, and throw out those things not deemed to be relevant. I wish some friend of the amendment would make this clear to me, if I misunderstand it; for it is certain, that as I understand it, the court would have the discretionary power to determine whether testimony is relevant or irrelevant, and also as to the examination of witnesses in the trial.

Mr. CLARKE, of Johnson. I will say to the gentleman from Clayton [Mr. Scott,] that I think there can be no difficulty in the legal construction of that clause.

Mr. SCOTT. I hope not; but it struck me that there was something wrong in the wording. It seems to me that a man would have the right to detain any witnesses he sees fit.

Mr. PALMER. I move to amend the amendment by inserting in the last clause, the word "civil" before "suits," so as to read:

"And parties to civil suits may be witnesses as provided by law."

Upon this question—

Mr. CLARKE, of Johnson, demanded the yeas and nays, which were ordered.

The question being then taken by yeas and nays, upon the amendment to the amendment, it was rejected; yeas 9; nays 26, as follows:

Yeas—Messrs. Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Palmer and Scott.

Nays—The President, Messrs. Ayres, Bunker, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Marvin, Parvin, Patterson, Peters, Price, Robinson, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

The question was then taken upon the amendment of Mr. Clarke, of Johnson, by yeas and nays, and it was agreed to; yeas 18; nays 17, as follows:

Yeas—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Warren and Winchester.

Nays—The President, Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, Solomon, Wilson and Young.

Mr. TRAER. I move that the article be engrossed, and read a third time.

Mr. WILSON. There are two sections yet to be passed upon, the tenth and the eighteenth.

Mr. HARRIS. I propose to move to amend section ten as soon as it is reached.

Mr. WARREN. I move to amend section eighteen by adding to it that portion recommended by the committee.

Mr. HARRIS. I will state that that amendment was made in the convention before it went to the committee. The committee concur unanimously in recommending that it remain as it is.

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The gentleman's amendment has been already made.

Mr. TRAER. Did the chair rule my motion out of order?

The PRESIDENT. In the opinion of the chair, the motion to amend takes precedence.

Mr. HARRIS. Section ten reads as follows:

10. In all criminal prosecutions, and in all cases involving the life or liberty of an individual, the accused shall have a right to a speedy trial by an impartial jury; to be informed of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for his own witnesses, and to have the assistance of a counsel.

I move to amend this section by striking out the words, "and in all cases involving the life or liberty of an individual;" and I would like to say a single word in defence of that amendment.

It may be, sir, that these words, if allowed to remain, would not be fraught with the consequences I fear they would; but, in considering this matter, I have taken pains to search the constitutions of all the several States of the Union; and I find that there is not in a solitary one of them such a provision as that, or anything which would carry the same force or effect that that would. Gentlemen may think, perhaps, that that is a strong expression; but if they will take the trouble to make the examination, I think they will find it to be true. I certainly made the comparison with some little care, in order that I might ascertain, if possible, whether we were striking out new ground in relation to this matter; and I think we are. If gentlemen will take the trouble to compare these different provisions, they will see the objection to this clause. The reason will at once occur to them why that language is not inserted in other constitutions. So far as the rest of the section is concerned, they will find it in most of the State constitutions. In some shape or other, I think they will find it in all the constitutions of the several States; but that clause cannot be found there. I apprehend the reason for it is simply this.

There are two classes of cases that may arise, and perhaps will arise under our constitution, in which I think gentlemen would say at once a person would not be entitled to a jury trial in this state. The import of that clause is to give any person that may be arrested, who may be taken up in any shape or way in this state, the right of jury trial immediately, and in this state. I say that the language cannot result in anything else than giving to any person taken up, under any circumstances whatever, the right to a jury trial here. Gentlemen will see at once that that ought not to prevail in all cases, for the reason that I attempted to give in the report read here yesterday.

If a person commits a murder, or any other crime, in any other state of this Union, and flees into Iowa and is arrested here, gentlemen will see at once that he is not entitled to a jury trial here. He must be tried where the offence is committed; and all that can be done with him here, is to hand him over to the officers of justice to take him for trial to the place where the offence was committed. Gentlemen will see that there is a provision in the constitution of the United States to that effect.

So far as fugitives from justice are concerned, I think this clause which has been inserted in that section would come into conflict with the constitution of the United States, and would compel us to repudiate any law of Congress passed to put in force that provision of the constitution of the United States.

There is another reason that strikes my mind. I do not wish to enter into any political discussion upon that question, but I wish to be understood upon that as upon anything else. I do not shrink from placing myself upon the record upon this as well as other questions. And I say here that it is my belief that this provision was inserted here with the intention that it should have the construction I placed upon it. In fact, when I spoke of it to other members of the committee, while they did not positively avow the doctrine, they went so far as to say, that if it did go so far it made no difference to them, that it was a good doctrine and they would maintain it.

Now, sir, there is a provision in the constitution of the United States that provides for the return of persons whose labor may be due, of fugitive slaves, if you please, to other states of this Union. This provision in our constitution would prevent any person from being removed, unless he first had a jury trial here. I undertake to say that he cannot have a jury trial here, for simple reasons. The laws of this state prevent any person from holding slaves; and would prevent any person from proving their right to the labor of any person who might be a slave. As I understand the laws of this state, passed under our constitution, you could not, there being no slavery here, prove property in a slave. This would not be the proper place to try questions of that kind. He could only be fairly tried where the question of the legality of slavery would not arise.

I understand that this provision is inserted for the purpose of providing that instead of the fugitive slave having the trial by jury where his labor may be due, he shall have his trial here; which would be equivalent to saying at once, that any slave in the territory of this state shall have the right to assert his freedom, and cannot be remanded back into slavery. That is the true meaning of that clause, I suppose.

While I do not desire to defend the institution of slavery, or the moral right of the master to reclaim his slave, I understand there is a faith pledged upon the part of this state, and of the other states of the Union, which we have not the right to trample under foot. I have no

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objection to going upon the record upon this subject.

Mr. CLARK, of Alamakee. It strikes me that the gentleman is fetching his apprehensions from a great distance here. In the first place, the constitution of the United States declares that a person shall not be deprived of life, liberty, or property, without due process of law. Now the phrase "due process of law" has a known definite legal signification. It means a determination of the fact in the courts of common law, which secure the right of jury trial. That covers the whole ground. Taking all that the gentleman claimed that this provision was intended to guaranty, it is no more than is secured by the Constitution of the United States to every individual.

Mr. HARRIS. I will simply state that while I do not find this provision nor the one he speaks of in the constitution of the United States, nor in the constitution of any free State, the term "due process of law" is contained in the constitutions of several of the slave States. I apprehend there would be no objection to inserting this in the shape of the "due process of law" which he speaks of.

Mr. CLARK, of Alamakee. I apprehend that if the gentleman has no objection to a provision in the constitution of this State, which in fact is similar to that in the constitution of the United States, he will have no reasonable or good objection against this provision in the constitution. There is another provision of the constitution of the United States almost directly upon this point, and, it strikes me, going the same length, in almost every conceivable case, with this provision in the tenth section of our bill of rights. It is the provision that requires that in suits where the value of the controversy exceeds twenty dollars, the right of jury trial shall be secured. Is not that provision of the constitution of the United States, as broad and effective as the provision in the tenth section of this article, which the gentleman has moved to strike out? Apply the principles of either of these provisions of the constitution of the United States, to any individual who may be arrested under the laws of this State or under the jurisdiction of this State, and will they not secure to that individual all the rights that can be secured to him by the section which the gentleman wishes to have stricken out? I think it is clear that that is the case. Notwithstanding that, I am desirous that this provision shall remain in this constitution for a number of reasons. I know it is secured and guaranteed by the constitution of the United States, wherever that constitution is applicable, in all the courts governed by the constitution. If the constitution of the United States contains that provision, I apprehend that the people of this State have the right to place it in their constitution. The objection raised by the gentleman seems to me to have no valid foundation. He says that fugitives from justice cannot be arrested in this State under this provision of the constitution.

Mr. HARRIS. I did not say that they could not be arrested; but that they would be entitled to jury trial here.

Mr. CLARK, of Alamakee. Now I undertake to say that they would not be entitled to a jury trial here. What is the meaning of that provision? What would be the principle at the foundation of that provision? The provision says that he shall not be deprived of liberty; that is, upon the final trial. It is upon the trial which is to settle for all coming time the question as to his right to liberty in that case. It is the final trial, the trial provided by law, according to the common laws, when the case is heard, the jury is empannelled, and the verdict is pronounced. It has no reference to his being arrested in preparation for trial. Are not persons arrested every day for the purpose of examination, to ascertain whether there is proper cause for retaining them until they shall be put upon their final trial? Under the requisition of the Governor of another State, upon a charge made out against a man for an offense committed against a man in that State, to arrest and remand a fugitive from justice does not interfere at all with the provisions of this constitution. But the real difficulty of the gentleman lies, I apprehend, not in these objections, but simply in relation to the last topic he has touched upon.

I am willing to meet the gentleman fairly and squarely upon this question. I claim that no State can be sovereign, no people can be independent, without a right reposed in that people, and in that sovereignty, to protect its own people, and to determine within the jurisdiction of that sovereignty the right of the people found there to life or liberty. I hold that unless we have the right to make a constitution which will secure to me the right of jury trial, if I am claimed as a fugitive slave, without that right we are not a sovereign people. Without that right we cannot protect every individual member of society. Without that right we cease to be a sovereignty, and become dependant upon some other power. Gentlemen will say perhaps that there is no danger of my being claimed as a fugitive slave. I do not know whether there is not. I apprehend that people as white as I am have been claimed as fugitive slaves. And if I am found within the jurisdiction of this State, it is a principle of sovereignty, that if I am arraigned upon a charge that I do not owe myself, that I am not a free man, I have the right to a trial here where I am found; and the laws of the State should guarantee to me that right. We cannot be independent, we cannot be sovereign, without that right. We cannot protect our citizens without it. I do not care whether the case is probable or not. If it may be so that either myself or any other individual who is a citizen of this State, may be claimed as a fugitive from service, and dragged from his home in this State, dragged from his family, dragged from the presence of his friends, dragged from the spot where he can have the bes.

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means of proving his freedom, and taken into a foreign land, into another State, under an independent sovereignty, to be tried, irrespective of the place where he is found and lives, if that may be done, there is no essence and there is no meaning in the term "sovereignty."

Let us look for a moment at the contrast between the principle claimed and the true principle.

Suppose that a man in Missouri comes over here and claims a horse, which he finds in my possession. He cannot dispossess me of that horse and take it to Missouri without giving me the benefit of a jury trial to ascertain whether that horse is mine or his. But if he wishes to put in a false claim to that horse, which he would be unwilling to submit to a jury of this State, where I have the means of proving that the property is mine, all he has to do is to go back to Missouri and make out a case describing me as a fugitive slave. Then he can take me, deprive me of my right of being heard by a jury, and thus secure me and my horse too!

What a glaring inconsistency in principle. We are a sovereign State that will allow me the right of a jury trial when the value of a sixpence is brought into controversy; and yet when I am put upon trial for my liberty, which is above all earthly blessings, I am deprived of that right. This, we are told, is a principle of sovereignty.

I may be met by being reminded that an act of congress has established the law that I may be taken away from this place as a fugitive slave, and carried to South Carolina or Texas, or any other part of the United States, as a fugitive slave, and that I shall not have the right of jury trial here.

I admit that such is the reading of that law. But there are serious doubts about that being constitutional. I do not believe that it is constitutional. I believe it is in direct conflict with some twelve or fourteen provisions of the constitution of the United States. Now then I wish to say that if it is unconstitutional, then we are bound by all means to place in our constitution such a provision as this, to protect our native citizens. If the law is constitutional, and shall be upheld by our tribunals, this provision can do no harm in the constitution, because the higher law, the law of the United States, will override the provisions of our constitution. So it can work no injustice, no injury, no harm, in being placed there, in either case. Viewing it in any light I am capable of viewing it, I am in favor of having it there, and therefore I am sincerely opposed to striking it out.

I think it is a duty which we owe to ourselves, to our constituents, and to the people throughout the State; a duty which the people of the State owe to each other and to themselves, to maintain their sovereignty, to maintain the principle that as sovereigns, they have the right to guarantee the right of trial by jury, when liberty is invaded, to every person found within their borders.

When I say this, I do not mean that I would advocate disregarding a provision of the constitution of the United States, or that I would advocate enacting a law annulling a law of the United States; that it is the principle of the constitution of the United States, that the person whose liberty is questioned, is entitled to a jury trial here at home; and the person claiming him may produce his law from the slave States, by which he is to be proved to be his property. If he can establish by proof that it is the same person, that he held him and owned him as a slave, he is to submit these proofs to a jury of the country where the man is found. All the principles of right, all the principles of justice, all the principles of humanity demand that at our hands.

Why, sir, what was one of the most serious charges brought by our forefathers against Great Britain, and one of their most substantial excuses for resisting their tyrannical acts? It was that they transported men away from their homes, beyond the seas, away from their friends and relatives, to be tried in courts of justice not of their own creating. And shall we be less mindful of the rights of our own people in our own State, than were our ancestors? Shall another State of this Union come into our State and claim to sieze any person found within our limits, lay their hands upon him, drag him from the State, away from his home, away from the evidence, into a foreign State, to be tried upon the question which overrides all other questions, the right of that man or that woman, it may be, to his or her freedom? Never will such a provision be stricken from the constitution of this State with my consent.

Mr. WILSON. It has been remarked by one member of the committee, the gentleman from Appanoose [Mr. Harris] that when he raised his objection to this clause, before the committee, it was said by other members of the committee, that even though that provision should come in conflict with the fugitive slave law, the majority of that committee did not care. I was one of the majority of the committee, and I will repeat here to-day, that if the provision under consideration should come in conflict with the fugitive slave law, I do not care. I hold the doctrine which has been enunciated by the gentleman from Alamakee [Mr. Clark], that the fugitive slave law is unconstitutional. I believe it to be unconstitutional. And, sir, if we do put anything into our constitution which will conflict with that law, I am safe in saying, that for one I do not believe I am coming in conflict with the oath I have taken to support the constitu- of the United States.

The gentleman says that this may bring us in to conflict with the provisions of the constitution of the United States, and has cited two instances—one in relation to fugitives from justice and the other in relation to fugitives from service or labor. There is a wide difference be-

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tween the two cases. There is a wide distinction in the constitution itself, a distinction wide enough, in my judgment, to warrant us in placing this provision in the constitution of this State. The section referred to by the gentleman from Appanoose [Mr. Harris], in relation to fugitives from justice is in these words:

"A person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime."

There is an absolute requirement by the constitution of the United States upon the States of the Union, to deliver up the fugitive on the requisition of the Executive of the State where the crime was committed. But how different is the language in relation to fugitives from service or labor:

"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

I undertake to say that there is a vast difference between these two propositions. In the first place, the reason why the fugitive from justice is to be delivered up, on the requisition of the Governor of the State where the crime was committed, and from which he has escaped, is that that State only can have jurisdiction. The crime cannot be punished excepting by the courts of the State having jurisdiction of the offence. It is the locality that gives life to this provision. But in the other case, you do not charge upon a man the commission of any crime, and the charge is brought primarily against the man in the State where he is sought to be reclaimed. If you bring a charge against a man for having escaped from service or labor due in another State, your charge is primary in its character, and is brought where you find the man. What is the presumption of law in that case? The presumption is that every man is a freeman until he is shown to be a slave. Where are you to determine that? Under the jurisdiction where the charge is brought, and not, as in the other case, under the jurisdiction where the crime was committed. There is a wide distinction, a very wide distinction between the two cases.

For that reason I say that I am willing to place the provision under consideration in the constitution of this State. Gentlemen may say that it will bring about a conflict between the courts of the United States and the courts of this State. Let that conflict come, and let the question be determined. I say that every man sought to be reclaimed as a fugitive slave has a right to a trial by jury; and if the Congress of the United States, in the statutes passed by that body, shall refuse that right, let the State where the man is sought to be reclaimed, make provision by which he shall have that right guaranteed to him. I well know that there was a time in the history of this country when men were not afraid to say, that in all cases involving life or liberty, man should be entitled to a trial by jury. But in these latter days, we find men trembling when it comes to the enunciation of that kind of doctrine. Their knees quake from fear that it will come in conflict with something that has grown up under our government, in conflict with old time doctrines. If there is anything in the government of the United States which has sprung up from the interpretation of the constitution, or which has grown out of the statutes of Congress, with which the provision under consideration comes in conflict, then I say the sooner we get rid of it the better, the sooner we assert our determination to stand by the principles of the Fathers, the better for our country, the better for ourselves, the better for posterity.

In the declaration of independence we find a grave charge brought against the English government; and what is that? When the founders of this government met together for the purpose of declaring their independence of the mother country, they thought it was not right to sever the connection without giving to the world their reasons for taking that step. They spread before the world their reasons; and among other reasons which they brought forward in the shape of charges against the mother country, we find the following:

"For depriving us, in many cases, of the benefit of trial by jury."

That was one of the charges brought by the colonists, represented in the Congress which adopted the declaration of independence, penned by Jefferson, one of the charges given to the world in justification for entering upon our revolution to secure our independence. And shall we, the descendants of those men, now fear to renew that declaration? Shall we, who have enjoyed for years, and our fathers before us for a life-time, the blessings secured by that act, shall we now, forming a constitution for a sovereign State, a sister to the old States, now shrink from the declaration then made? Shall we fail to carry into effect the true principles involved in the charge there brought against the mother country? Sir, when that declaration went to the world, with other charges containing the reasons for severing the connection existing between the two countries, the world justified the act. The world justifies the act to-day; and the world will justify the act forever. All mankind look upon it as one of the noblest spectacles ever presented to the world. We are called upon to-day to preserve one of the great principles upon which they based their action at that time. For one, sir, I am free to say that I will never shrink from declaring it. For one, sir, although it may bring down all the reproach that can be bestowed upon me; although it may cover me from head to foot with epithets from

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my opponents; although it may dig my political grave so deep that the hand of political resurrection shall never find me, I will, nevertheless, by my vote, stand by that principle, while I have power to stand in favor of any declaration or any principle.

I am contending here, sir, for a declaration which will give to me and to others this right claimed by our fathers in the Declaration of Independence; and I now desire to know whether any gentleman in this Convention will dare to vote against re-declaring this old principle. I desire to know whether anything has grown up in our government which causes men to stand aghast in the presence of this principle, and to vote against its adoption. I desire to know if, after all our care, after all our energies and the energies of our fathers have been spent in building up a system of free government, to secure this right—if, after all the safeguards which have been thrown around it, anything has crept into this government which comes in conflict with this right. If such is the case, I stand ready, for one, to do all that lies in my power to eradicate the evil, to get rid of it as soon as possible, to bring our government back to the old landmarks by which our fathers marked out the original course of our government. Sir, upon that platform I am prepared to stand; upon that platform I am prepared to fall, if fall I must. But I know that the people of this State, and the people of every free State in this Union will at last say, amen, to the declaration this Convention will make by engrafting the clause under consideration in the tenth section of our bill of rights.

Mr. HALL. I have but a few words to say in reply. I ask, when gentlemen rise here and talk about this State as being a sovereign State, if that is true? In some things this State is sovereign; but in some things it is not sovereign. In some things the United States are sovereign, and in some things they are not sovereign. That is what I have learned. No person can gainsay that, unless he is prepared to draw the sword against the Constitution of his country, unless he is willing to resort to force, to bring about a revolution and a change in our institutions. Now, sir, as to this subject upon which this insidious clause is attempted to be engrafted into our Constitution, we, as a State, have said that the United States should be sovereign upon that question. They are sovereign upon that question. It is part of the Constitution of the United States. We have said, too, that the courts formed under that Constitution should be the persons to construe that instrument, and that their decisions should be final in all cases arising under it. That is as much a part of the Constitution as any other clause of it. Now, sir, the person who wishes to bring our State into collision with that instrument, or who wishes to put into our Constitution a defiance against the exercise of that branch of sovereignty confided to the United States, and yielded to the United States by the Constitution, goes one step towards becoming a traitor to that instrument.

Let us look and see how this matter stands. It is a matter of history, that no gentleman of intelligence dare deny, because he can be convicted of ignorance if he attempts it, that unless this clause had been placed in the Constitution, that Constitution could never have been agreed upon; it could never have been framed. During the administration of General Washington, (I know that he has lost his prestige in this age; I know that his views are hissed at and his declarations looked upon as those of a man unworthy of being heeded)—by the recommendation of that man, whose name, I think, will exist in history as long as that of any other man, this law was passed unanimously by Congress, many members of which were also members of the convention which framed the Constitution.

Mr. WILSON. Will the gentleman allow me to ask him one question? I presume he does not refer to the present fugitive slave law.

Mr. HALL. I refer to the law of 1793.

Mr. WILSON. My question is this: whether the fugitive slave law recommended and passed at that time has not been declared unconstitutional?

Mr. HALL. As I was stating, the fugitive slave law was passed in 1792, and passed without any objection at all, upon the recommendation of the executive at that time, who probably knew as much about the principles of the Declaration of Independence, and the principles of liberty, as some of us now here, and whose judgment I am proud to trust. That law was in force until 1850; that is, for about fifty-seven years. During that time, there was one branch of that law which was declared—not exactly unconstitutional, I would not give it that expression, where it attempted to force the magistrates of the States, created under the State laws, to assist in carrying it into execution. It was decided that they could not be compelled to perform those duties; and hence, after that decision was made, the law was found inefficient, and the present law was framed to meet the difficulty. Now, sir, if the fugitive slave law of 1850—the law which the gentleman speaks of—is not in accordance with the Constitution of the United States, but is in conflict with that instrument, there is provided a tribunal to decide that question; and when it has decided that question, can we, as citizens belonging to a State, or as citizens of the United States, resist the execution of what is thus declared to be the law of the land, and to be constitutional? Can we resist it without being traitors? That is the question. Can we resist the authority of the United States, constitutionally presented, and set it at defiance with impunity, and still say that we belong to the government? That seems to be the doctrine of gentlemen here. No, sir; the decision of the tribunal of adjudication provided in the Constitution, upon disputed questions, is just as much a part of the constitutional and supreme law of the land as any act of Congress which may become authoritative in this State. We are not sovereign over the ques-

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tions we have delegated and given up to that adjudication; and that is the error of logic in the whole argument.

I would be unwilling to put into this constitution what gentlemen have openly avowed is the meaning of this provision; and if these words are not stricken out, this will be the condition of things: that if Congress pass a law upon the subject of the rendition of fugitive slaves, and if that law shall be resisted by a counter law of this State, we shall have assumed to take that subject from the authority of the laws of the United States, to decide upon it for ourselves. That cannot be done without bringing about a collision between these authorities. The power of the one government, proceeding under the judicial authority of that government, will be brought into collision with the power of the other government, exercising its authority under the judiciary or some other branch of the government. There will be a collision between the power of this State and the power of the United States; and that, too, upon a question clearly given up and surrendered by the States to the General Government, and fully decided over and over again. The judiciary of this State does not settle the question whether that law is constitutional or not. That is a part of the duty of the Supreme Court; and it is the duty of every person to abide by that decision when made. We can have no law without it. If gentlemen take the authority into their own hands—if a State, in consequence of an unwelcome decision of the Court of adjudication, stands out and rebels against it, what is the consequence? One or the other of these powers must enforce its judgments. One or the other of these parties must be right. Both cannot be right. Now, I am unwilling to bring our State, at this early period, or at any time, into a collision with the government of the United States. I am unwilling to put into our constitution a clause to decide what the Constitution of the United States means—to decide questions which the Supreme Court alone can decide. I am unwilling to assail directly the constitution of my country. That is the position which I occupy here.

Is it possible that the majority of this convention will stand here now and say that this authority delegated by the Constitution of the United States does not belong to the General Government? That we here may take it back? That we here will resume that privilege or that power? Will we do it? If we can take from the General Government what has been committed to them in this particular, we can in any other particular; and what government is there left? How long will it stand? This State takes away one prerogative, and another State another prerogative. The General Government would be a rope of sand, indeed. It would be worthless; it would be a mockery. That government is supreme in regard to that question. The decisions of its courts are supreme with regard to it. We cannot interfere without collision and rebellion against that Constitution. Are we now to make our primary law come in conflict with that? Shall we stand here and say that the General Government shall not exercise the powers delegated to it? It strikes me that we will not do it. I do not believe that the majority of this convention can be brought into collision with the General Government upon that matter, or sow the seeds of treason in the constitution we are framing.

Mr. SKIFF. I think the convention must be by this time pretty well prepared to vote upon this question, and I therefore move the previous question.

The call for the previous question was seconded, and the main question was ordered, upon a division; ayes 15, noes 13.

The question was then stated upon the amendment of Mr. HARRIS, to strike out from section ten the words, "and in all cases involving the life or liberty of an individual."

The question being then taken, by yeas and nays, the amendment was rejected; yeas 14, nays 21, as follows:

Yeas—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, and Solomon.

Nays—The President, Messrs. Bunker, Clark, of Alamakee, Clarke, of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

On motion of Mr. WINCHESTER,

The article was referred to the Committee on Revision, Engrossment and Enrolment.

Miscellaneous.

Mr. SKIFF. I move the following resolution for the special benefit of my friend from Lee, [Mr. Johnston.]

Resolved, That when any member of this convention is brought in by the Sergeant-at-Arms, upon a call of the House, the delinquent be required to furnish the members with refreshments. [Laughter.]

Mr. WILSON. I move the following resolution, in good faith, as a substitute for that of the gentleman:

Resolved, That the Sergeant-at-Arms be allowed one dollar for every member of the convention brought in upon a call of the convention, which sum shall be paid by such member, unless otherwise directed by the convention.

Mr. TRAER. I suppose that resolution lies over one day under the rule.

The PRESIDENT. In the opinion of the Chair, it will lie over two days. [Laughter.]

Mr. JOHNSTON. I wish to call the attention of the convention to one thing. It will be seen by the act of the Legislature calling a convention, that there is a provision for the *per*

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diem of members and mileage, and also providing for the compensation of officers; and I think it is further provided that the convention shall make arrangements for its own printing. As we begin to see the end of our labors, it would be well to collect these things together. The officers of the government will require some kind of a certificate or authentication; and I therefore move the appointment of a committee on expenditures for the purpose of collecting the different items and presenting them in a proper shape to the accounting officer.

The question being then taken, the motion was agreed to.

Mr. PETERS moved that the convention take a recess until 7 P. M.

The question being taken upon a division, the motion was rejected; ayes 7, noes 11.

On motion of Mr. TODHUNTER,

The convention then adjourned until to-morrow morning, at 9 o'clock.

WEDNESDAY, February 25th, 1857.

The Convention met at 9 o'clock, A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of yesterday was read and approved.

Printing of the Journal.

Mr. PARVIN offered the following resolution:

"*Resolved*, That John Mahin be hereby employed to print ——— copies of the journal of the Secretary, and that he be paid as compensation therefor, the same amount as is paid to the State printer for like services.

Resolved, That the Secretary—T. J. Saunders—be employed to superintend the printing of, and to distribute the said journals; and that he be allowed —— dollars as compensation in full for his services.

Resolved, That John Mahin be employed to print —— copies of the amended constitution, separate from the journals, and that he be paid therefor the same amount as is paid the State printer for like services."

Mr. PARVIN. I desire to occupy the attention of the convention but for a moment in explanation of these resolutions.

At the beginning of the session we agreed to dispense with the printing of the journal, and print three thousand copies of the debates and proceedings of the convention, as prepared by our reporter. This was thought to be too expensive, and subsequently we reduced the number to one thousand five hundred. Now, I think it is due to ourselves and to our constituents, that the journal of the Secretary be printed, in order that members may have it to distribute in their respective districts, so as to let their constituents know in what manner they have voted upon the various questions presented here. I see no reason why we should dispense with the printing of it. I know of no legislative body or convention that has ever dispensed with the printing of the Secretary's journal, and I hope this convention will not do so.

I do not know the number of copies that it will be necessary to have printed. I think we ought to have fifteen hundred, and that will make three thousand copies of the journal of the Secretary and the debates. If the convention conclude to print the journal, it will fall of course under the supervision of the Secretary to attend to its publication.

The resolutions I have offered also requires Mr. Mahin to print such number of copies of the amended constitution as the convention may agree upon. This, I think, is essentially necessary. The constitution, of course, will be printed in all the newspapers, but I think it is also necessary to print it separately, and cast it broadcast over the State, so that every voter may have an opportunity of comparing the new with the old constitution.

I would go as far as any gentleman to save expense, but I think it is due to ourselves and our constituents, to have this printing done. When our constituents have this journal before them, they can see how their representatives have voted upon every question that has been presented here.

Mr. TRAER. For one I am not prepared to vote upon this question. And in order that gentlemen may have time to consider the matter, I move that the resolutions be laid upon the table, subject to the order of the convention.

The question was taken, and the motion was agreed to, upon a division; ayes 11, noes 8.

Enrolling Clerk.

Mr. WILSON. I offer the following resolution:

"*Resolved*, That the Secretary be, and he is hereby authorized to employ some competent person to act as enrolling clerk to this convention."

I will simply say in connection with this resolution, that I believe the services of a clerk for this purpose will be necessary. Our present secretary cannot attend to it, and his assistant is unwell and confined to his room. It will be necessary to have the constitution enrolled, and as it is customary to employ persons for that purpose, in other bodies of the same character, I therefore move this resolution.

Mr. CLARKE, of Henry. It strikes me, that we can get along without this expense. I believe that the articles which we have already passed upon are now being printed, and will soon be laid before members. The articles on

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the legislative, the executive, and the judicial departments, and the articles on the militia and Stete debts, which comprise more than one-half of the constitution, are now in a condition that will require no further enrollment.

The question was then taken upon the resolution, and it was agreed to.

Printing of the Constitution in German.

Mr. CLARKE, of Johnson. I offer the following resolution:

"*Resolved*, That of Dubuque county be employed to translate the constitution into German, and that he be employed to print three thousand copies of the same at the prices now paid by law for the same kind of work."

I took the responsibility of fixing the number of copies of the constitution to be printed in German at three thousand, which I supposed would be sufficient. I am not particular as to the amount, if the convention think proper to increase or diminish it. I do not know what the value of this labor is. I hope some gentleman who is better qualified than I am to judge of this matter, some one who has been in the General Assembly, and who knows what has been paid for the translation of the Governor's message into German, will inform us in regard to the prices we ought to pay for this kind of work.

Mr. GIBSON. I move to amend the resolution so as to provide for printing one thousand copies in the Holland language.

Mr. JOHNSTON. I do not think the number proposed by the gentleman from Johnson, [Mr. Clarke,] is sufficient. There are a large number of Germans in this State, who cannot read and write the English language. I understand that there are a large number in Clayton, Dubuque and Scott counties. There are about eight hundred or a thousand German voters in the county in which I live. I wish, therefore, that the gentleman would enlarge the number.

There is another matter to which I wish to call the attention of the convention, and it is this. It will be necessary to amend the resolution so that the old constitution may go out to the people along with the new one. It has been customary in other States, where new constitutions have been framed, to publish the old with the new constitution in parallel columns, marking the changes that have been made in italics, so that the people can have the old and new constitutions before them to see what changes have been made. I hope the gentleman will so modify his resolution as to provide for the printing of the old and new constitutions in parallel columns, marking the additions and amendments in italics.

I am not prepared to say what number is sufficient; but I think the number named by the gentleman from Johnson is too small. Probably it might be well to let this matter rest until we can make some inquiries upon this subject. I would like to have some four or five hundred copies of the constitution printed in German for distribution in my own county. I presume that some other gentlemen here would like an equally large number for distribution in their counties.

Mr. CLARKE, of Johnson. I am not disposed to press this resolution to a vote this morning, if gentlemen desire time to consider what number it will be necessary to print in the German language. I move, therefore, that the resolution be laid upon the table for the present.

The question was then taken, and the motion to lay upon the table was agreed to.

Committee on Accounts and Expenditures.

The PRESIDENT announced that he had appointed the following gentlemen as the Committee on Accounts and Expenditures;

Messrs. Johnston, Clarke of Johnson, and Parvin.

Education and School Lands.

The PRESIDENT. The first business in order is the further consideration, in committee of the whole of the report of the Committee on Education and School Lands.

Committee of the Whole.

On motion, the convention then resumed, in committee of the whole, (Mr. Parvin in the chair,) the consideration of the report of the Committee on Education and School Lands.

The CHAIRMAN. When the committee last rose, the question pending was upon substituting the following, being the first section of the minority report, which reads as follows:

"The General Assembly shall provide for the election or appointment of a Board of Education, to be composed of twelve persons, who shall be the Trustees of the University, and shall have the general charge and control of education in the State. They shall have power to appoint a Secretary of the Board, who shall be their executive agent, and perform such duties as may be imposed upon him by the Board of Education or the laws of the State."

for the first eleven sections of the majority report, which are as follows:

Section 1. The Educational interests of the State, to include Common Schools and other Educational Institutions, shall be under the management and control of a Board of Education, which shall consist of sixteen members.

Sec. 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been two years a citizen of the State.

Sec. 3. The General Assembly shall district the State into sixteen Educational Districts, and one member of said Educational Board shall be

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chosen by the qualified electors of each district, and shall hold their offices for the term of four years, and after the first election under this constitution, the Board shall be divided by lot into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the Board shall be chosen every two years thereafter.

Sec. 4. The first session of the Board of Education shall be held at the seat of Government, after which said Board may fix the time and place of meeting.

Sec. 5. The session of said Board shall be limited to twenty days, and but one session shall be held in one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a speci l session.

Sec. 6. The Board of Education shall organize by appointing from their bo'y a presiding officer, and the appointment of a Secretary and other inferior officers usual in Legislative Assemblies. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the General Assembly.

Sec. 7. All rules and regulations made by said Board, shall be published and distributed to the several Counties, Townships, and such School Districts as may be provided for by said Board, and when so passed, published and distributed, they shall have the force and effect of law.

Sec. 8. Said Board shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools and other institutions of learning that are instituted to receive aid from the School or University funds of the State.

Sec. 9. Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules, and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court.

Sec. 10. The Board of Education shall provide a system of Common Schools, by which a School shall be organized and kept in each district at least three months in each year. Districts failing o organize and keep up a School, may be deprived of their portion of the School Fund.

Sec. 11. The Board of Education shall establish one University, which shall be located at some central point in the State, *Provided*, that until such time as such location may be made, and suitable buildings erected, said University shall continue as at present located.

Mr. GOWER. I wish to offer the following by way of amendment:

"All moneys that have accrued or may accrue, to the school fund of this state under the second section of the ninth article of our constitution on "education and school lands" shall be received by the the Treasurer of State, and all holders thereof shall be required to pay the same to the treasurer as fast as existing contracts mature.

On the first Monday in February of each year the Auditor and Treasurer of State shall distribute to each county their proportion, and the county treasurer shall be authorized to draw the same, which shall be drawn by the districts or teachers as provided by the general assembly.

All of which shall be done by ex-officio salaried officers, and without charge to the said fund."

The CHAIRMAN. The Chair is of the opinion that the proposition of the gentleman from Cedar, [Mr. Gower,] would not now be in order as an amendment to the motion is now pending to strike out the first eleven sections of the majority report.

Mr. CLARKE, of Johnson. I am in favor of the motion made by the gentleman from Lee, [Mr. Johnston.] It seems to have been the intention of the mover, and seems to have been anticipated by the committee, that upon this motion the feasibility of these two projects might be considered.

I propose briefly to give my reasons for preferring the minority to the majority report. I can say at the outset, that I concur entirely in what the gentleman from Des Moines, [Mr. Hall] and the gentleman from Scott, [Mr. Ells] said a day or two since in relation to the importance of this subject. I believe that it is the most important subject upon which we can be called to act, and that it should receive our most mature deliberation; and if we should spend weeks in its consideration, and at the end of that time devise a system which would secure to this state an efficient school system, and amply secure the school fund, we would be fully repaid for the time and money expended for the meeting of this convention.

The first objection that presents itself to my mind against the majority report upon this subject is this; and it is an objection which I have frequently urged in relation to other questions submitted to this convention. This majority report, takes this school system, which ought to be, and which I think is, peculiarly dear to the people, out of their hands entirely. It goes too much into detail. If the experience of the future should show that the system was defective, and did not meet the expectations which the gentleman from Des Moines, [Mr. Hall] now entertains concerning it, it will be beyond our power to make such corrections and amendments as will be desirable.

Both the majority and minority reports provide, as I understand it, for the creation of a board of education; and as far as there have been any indications in their votes upon this subject, it seems to be the well-settled policy of the convention that there shall be a board of education created, which board shall have the control of the educational interests of this state. In regard to this main leading idea, there is no

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difference between the character of these two reports. They both propose to place the educational interests of the state in the hands of a board of education. The main difference between them is this: that one provides for the manner in which the board shall be called into existence, while the other leaves it altogether to the law-making power to determine the character of this board, and the mode in which it shall be called into being. I agree with the gentleman from Des Moines, [Mr. Hall] in saying that this board should have character and stability, and that it should not be dependent upon any branch of the government. I do not think, however, that the objections which he makes to the minority report, are well founded. I do not think it is necessary to provide in the constitution how this board shall be elected, in order to give them either character, permanency or stability. I think we may safely trust the creation of this board to the legislature; and I have no doubt that when they do create it, they will provide all the essential requisites for the successful operations of this board; that they will fix the length of time which each member of the board shall serve, and make all other necessary provisions in order to enable them to discharge their duties satisfactorily to themselves and to the people.

The first objection to the majority report that strikes my mind, is the manner in which this board is to be elected. It is proposed to divide the state into districts and give the election of the members of this board to the people. The first inquiry that presents itself here is do we have in this state the class of men that are necessary to make an efficient board of education, and who would be willing, for mere nominal pay, to devote their time and energies to building up our school system and attend to the management of our educational interests? I believe we have; I suppose that fifteen or twenty men may be found in this state who feel a deep interest in this subject and who would willingly undertake this task.

The question then arises, which is the best mode of selecting these men? If the State is divided into school districts that shall have the selection of these men, and the question is to be left to the vote of the people, will this mode of election secure the selection of that class of men? The gentleman from Des Moines, [Mr. Hall,] says, and correctly, too, that the men who devote their lives to teaching, and whose minds have been employed in the investigation of educational questions, are generally modest men, who shrink from mingling in politics, and from contact with party struggles. If this be true, and I think it is, it follows, as a most necessary and inevitable consequence, that the adoption of this system of electing these men by the people, will not secure the election of the very men who are best fitted to take charge of this department of the government. I think the inevitable tendency of this system would be to throw this school system into the party politics of the day. We know, from experience, that we cannot, in this State, elect an inferior officer by the people without a party contest. The elections of your township trustees, constables and justices of the peace, become party questions, and we have party candidates presented for these offices. The question is not who are the most competent persons to fill these inferior stations, but to what political party do they belong. This will hold true in relation to all the officers of the government; and it is even becoming true in relation to the election of our judges, as we have seen within the last month. We find that, in these vacant judicial districts, contests are going on, and party conventions are called, for the purpose of electing men to judicial stations. If it be true in relation to these officers, will it not be equally true in relation to the election of this board of education? If the office of a member of this board is to be regarded as an important one, and the board is to have an influence in the appointment of school officers, the selection of teachers and the management of the university fund, does it not follow that the moment you throw this matter before the people, and leave the election of these officers to them, it will become a partisan question? I think that this will be the inevitable result; and, to my mind, this view of the case presents a strong argument against the system proposed by the majority.

The system recommended by the minority of the committee proposes that this board shall be chosen in the manner provided by the General Assembly. If the General Assembly, upon mature consideration, come to the conclusion that this board cannot be safely selected by themselves, they may provide for their election by the people.

It does seem to me that the agents of the people, when they meet here in the General Assembly, representing, as they do, all parts of the State, familiar as they must be with the leading men in each district of the State, will be more fully competent, and more likely to make good selections, than will the people in the partisan contests which will be likely to ensue. I would prefer to leave this question to the Legislature, not because that is my individual choice, but because I think such would be the feeling of the people themselves. I believe the best way to secure appointments for this class of offices, is to leave it to the Governor to make the appointments, and to the Senate to confirm them. I believe, if the responsibility of the selection of these officers is thrown upon your Governor, and that responsibility is divided with the Senate, and they are to be held accountable for making bad appointments, the effect will be to make them careful in the selection of these officers.

The second objection to the majority report which presents itself to my mind is this: if you adopt the provisions they have reported, you will make this board of education an independent branch of the government, and you will change the character of our government in this respect,

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so that, instead of having a government of but three departments, you will have a government of four departments.

The majority report proposes to give to this board full power to make laws upon this particular subject, leaving to the other departments no power to repeal them, if it is found that they do not work well, but result in injury to the community.

I doubt the policy of such a system, for if you adopt it, and it is found, as may be the case, that the selection of the members of this board have not been of the best character, and that the board is composed of men of unsound judgment, and who are not well informed upon this subject, there is no power to which the people can appeal to reverse the laws which they have made, until a long time shall have elapsed. To my mind this presents a strong objection to the system here proposed. It is true that our present school system is defective and it is true, also, that the General Assembly this winter, and in preceding sessions have not given the subject of education that attention which it required. I do not say, as the gentleman from Des Moines has said, that this was the result of indifference upon this subject. I refer it to another cause, the want of time and the great press of business upon their attention. I think the neglect of the legislature in this respect, is not to be attributed to want of interest in this subject, but to the fact of their sessions being limited to a certain period, and their *per diem* reduced if they should exceed that time. I think if our legislature could meet here, be well paid for their services, and have ample time in which to do their work, they would act judiciously upthis subject, and would endeavor to perfect a system which would fully meet the wants and wishes of the people.

The same objection that the gentleman from Des Moines makes to the legislature acting upon this subject, applies to this board, as this system provides that they shall meet but once a year, and that the sessions shall be limited to twenty days.

It seems to me that a session of twenty days in one year will not afford sufficient time for this board to examine and treat this subject carefully, and to provide against all the contingencies that may arise. I believe that under this system we shall have the same hurry, the same want of examination, and reflection, and all the evils which have hitherto attended action upon this subject in the general assembly. I have no desire to make this board dependent upon the general assembly. If that report is adopted, the duty will devolve upon the general assembly to provide for the creation of this board, and to determine the length of office of its members, and when that is determined and this board is created, they will be as independent under the one system as they can be under the other.

But there is still another objection to the system recommended by the majority, and that is the expense which will be entailed upon the state by the election of such a board. If you create this fourth department of the government, if you make their dictates the law of the State, if you provide for the publication of their laws as you do for the publication of the laws of the general assembly, you in fact create a second legislature, with all the expenses attendant upon a legislature. They will have their own officers and they will print their own laws; you will in fact create a legislature with all the expenses necessarily incident to such a body, when it would be better for the interests of the state to have annual meetings of the legislature itself. There is no economy in this system.

If we are to have a legislature of some kind, either a legislature of the people or a legislature of the school department every year, I prefer to have a legislature of the people, that will have the ability and power to act, not only upon this subject, but upon all subjects which the interests of the people may demand.

We will gain nothing if we adopt this system, by having biennial sessions, because we provide for a legislature of another kind.

I come now to notice this proposition for a chancellor. I confess that the idea contained in this report upon this subject is not carried out by the views of the gentleman from Des Moines. I supposed when he used the term "chancellor," that he meant a very different officer from a ministerial officer. I supposed it was his intention to take all questions pertaining to our schools and educational interests out of the hands of the present courts of the state, and to create a chancellor of the courts, who should have sole jurisdiction of all questions in relation to this department of the government. If that is not his idea, it seems to me that the creation of this officer is useless, because, if no judicial questions are to be submitted to him, he is but a chancellor in name. The very explanation of the gentleman induces me to vote against the proposition for the creation of this officer. I am rather inclined to think that it would be well to create a chancellor in fact as well as in name, and I do not think it would be amiss to create a court whose jurisdiction should be confined entirely to the decision of questions pertaining to schools. But why need we determine that question here? Under the system proposed by the minority for the creation of this board, the legislature may provide for such an officer, may create such a court, and if the proper man be placed in that court, I have no doubt it will be for the interest of the State to adopt the system. But it is an experiment for which I am not willing to provide in the constitution.

Let us leave all these matters to the law-making power, to the representatives of the people, where they properly belong. If it be true as the gentlemen from Des Moines has said that the people have been so interested in the subject of common schools and education, that they have pushed the cause along in spite of

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the neglect of the legislature upon this subject, it seems to my mind an argument in favor of leaving this subject in their hands.

The principal difference between these two reports is, that the one lays down in detail the whole system, and puts it beyond the power of the people to change it, if it should be found to be inefficient, and not to work well; while the other places it in the hands of the people in their own peculiar department of government, so that they may change or alter it as the necessities of the people may require. I may say here, that throughout the session of this convention, in every vote I have given, I have advocated the principle of giving the largest liberty to the people upon subjects pertaing to the law-making power. While I have not gone so far as other gentlemen in holding up to the people every office in the State as a bauble, I have, so far as the question of making laws and the management of their pecuniary interests were concerned, left everything to them. So I am willing to do upon this subject. I believe the people are competent to judge upon these matters, and that they will send such men to the legislature as will put this system in such a shape as will prove beneficial to the people.

These are my views for preferring the minority to the majority report. It provides for the same system, that of a board of education, as does the majority report; but it leaves the details to be carried out by the general assembly, which is, I think, the proper department to manage these matters.

Mr. PALMER. This roport of the majority of the committee proposes very radical changes in our school system. I am not sure whether the people are prepared to adopt them or not. I think if the system proposed here be adopted it should be made as perfect *as* possible. The gentleman to whom it is acknowledged we are indebted for this report, [Mr. Hall] admits that it is not perfect, and he has expressed a desire that members of the convention shall suggest amendments.

I am not sure yet that it may not be so amended that I may vote for it, but at present it appears to present difficulties that are not easily remedied. For instance, we are called upon to create a distinct legislative branch of the government. I can consider it in no other light than as a legislative branch of the government. It proposes that the board of education shall have legislative control over all school matters. If this control be given to them, then it would be necessary to give them the exclusive charge of the school funds of the State. I believe that it would be futile to give them the power that this report gives them, without also giving them the charge of the funds. If you do not do that you bring them into conflict with the other branch of the legislature. This board, then, is to make appropriations of the school funds. Of course they will have to do it, if they may legislate with a view to such appropriations, and the legislature may refuse to give them the necessary funds for the appropriations which they have made. Thus these two bodies will come into conflict, and the operations of the board will be stopped by the refusal of the general assembly to give them so much of the funds as they will need to carry out their measures.

I think if this plan is adopted at all, we will have to give them exclusive charge of the school funds, and I think, too, that this board will be compelled to have the power of enforcing their acts by penalties. It will give them considerable legislative power in that respect, for I think it will be useles to give them power to make laws with regard to education, without power to enforce penalties for not complying with those laws. I think if we look carefully into the operations of this system, that we will come to the conclusion that it will ultimately result in giving them the authority I have named.

I do not see that the minority report is much better than the majority report in that respect. I think it is also contemplated by the minority report to give this board of education legislative power; otherwise I see no necessity of constituting a board of twelve members. It says that they shall have the general charge and control of the subject of education in this State.

If we are to confine legislative enactments upon the subject of education to the general assembly, I think that we do not need this numerous body of twelve men, merely as executive officers to carry out the laws enacted by the general assembly upon the subject of education, and to have control over the educational affairs of the State. Executive officers for such a purpose do not need to be so numerous, if they are merely executive and have no legislative functions.

The gentleman from Johnson [Mr. Clarke,] objects to the manner of electing this board by the people, as is proposed by the majority report.

I think if you constitute a board as numerous as this, their election should be entrusted to the people. I believe if the people are not capable of judging rightly upon this matter, then we better give up our form of government at once, and acknowledge that the people are not capable of self-government. The gentleman in support of his argument says that mere partizans, unqualified for the station, will be elected by people. So far as my observation extends, I think that this objection can be urged with fully as much force to the appointing power. We have all seen the operation of the appointments given to the President of the United States, and we have all heard in large towns, frequent complaints that the selection of postmasters was not given to the people of their respective townships and cities.

Men are sometimes recommended to the President for appointment by a few persons, and are accordingly appointed, who are totally unqualified to discharge the duties of the office with which they are to be entrusted, and who are be-

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sides unpopular with the people whom they are to serve. We know that it is now considered that "to the victor belongs the spoils," and hundreds of hungry office-seekers, totally disqualified for the offices they seek, and having no other qualification, perhaps, but that of having been active, vigilant partizans, to recommend them for appointments, are among the most eager to apply for office, when patronage is about to be dispensed, while those who are the most meritorious, and better qualified than the class I have described for these positions, hold aloof, through modesty from pressing their claims. But if the people are left to judge, they will at least canvass the claims of those who are qualified, and will be likely to elect them.

So far as I have noticed legislative appointments, they are almost always confined to partizans. Whatever the politics of the party in power may be, for every man appointed who is not on the same side with the party in the majority, you will see a hundred the other way. Such occurrences as this are much less frequent with the people, for they are more apt to discard partizan feeling in the election of important officers, than the executive and legislative branches of the government.

I am aware that some great radical change is needed in our educational system. Whether the people will be prepared for it or not, I cannot say; how it will operate, I will not pretend to judge, as yet. If some plan could be devised by this convention, which it would be proper to adopt in our constitution, and which would be acceptable to the people, a better plan than now exists, I would be willing to support it.

Mr. WILSON. I think, with the gentleman from Des Moines [Mr. Hall,] that this subject should not be passed over lightly. It is one of the most important subjects that has yet been brought before the convention, and I am free to admit, after the discussion which has taken place, and after the light which has been thrown upon these reports, by the gentlemen who have already spoken upon this subject, that this convention cannot, in my opinion, employ its time to better advantage, than in devising some method for the improvement of the schools in this State. What that method shall be, I have not yet determined in my own mind. So far as the motion now pending before the committee is concerned, I certainly feel like supporting it. I cannot, with my present views, give my support to the majority report. There are many things objectionable in it, most of which have been noticed by the gentlemen who have discussed this question. I think one very important objection is that of establishing a fourth department of the government. There is one thing in the majority report which strikes my mind as an unfavorable feature, and that is the necessary clashing that its adoption will bring about between the legislature and the board of education for which it provides.

The eighth section of the report of the majority provides, that

"Said Board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university fund of the State."

This is a broad provision and gives this board the power to legislate in relation to everything relating to common schools and other educational institutions, except, it may be, the disposal of the school fund.

The thirteenth section of the report provides that—

"The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State."

It seems to me that the construction which these two branches of the government will be likely to place upon this section would bring about a clashing between the Legislature and this board immediately. How shall we determine whether the board, under the eighth section, have exceeded their jurisdiction or not? or how are we to determine whether the General Assembly, under the first provision of the thirteenth section, have exceeded their jurisdiction or not? We are to determine that according to this majority report by the chancellor, as provided for in the ninth section, which reads as follows:

"Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court."

If the board of education shall go on and exercise the power which they may claim under the eighth section of the report, and the General Assembly shall also go on under the thirteenth section, and exercise the same powers that the board of education have taken upon themselves, we then have these two departments of the State brought into conflict. All decisions in relation to acts which may be passed by the board of education must be passed upon by the chancellor; and all questions growing out of

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laws which are enacted by the Legislature under the thirteenth section must be determined by the courts of the State. The courts of the State may determine these quastions one way, and the chancellor may determine them another; and hence you will have a clashing between the decision of the chancellor and the courts of the State. It seems to me that such a state of things will inevitably produce confusion; and, to my mind, it presents an unanswerable objection to this report.

Another objection which I have to the adoption of the system proposed by the majority report is this: We have retained, in the article upon the legislative department, in this Constitution, the veto power over all acts passed by the General Assembly, which can only be overcome by a two-thirds vote of both branches. This report severs the board of education from that power entirely, and no act of this board, no matter how it may come in conflict with the interests of the people, no matter what hardships may grow out of it, can ever be reached by the veto power which we have retained in the Constitution, and which was supported so strenuously by so many members of the Convention. No matter how obnoxious the law may be, it must go to the people as the law of the State. If unconstitutional, or if it has been passed hastily, it cannot be arrested by the exercise of the veto power. Having gone to the people, although it may clash with their interests, although it may retard the growth and development of our common schools, although it may be objectionable in every feature, the people of the State, under this provision of the majority report, have no remedy whatever. If a question should spring up in school districts most remote from the place where this chancellor shall reside and hold his court, no matter how insignificant that question may be, the parties interested can only have a remedy by appeal to the chancellor. In a majority of cases growing out of school laws, that would be an effectual bar against any remedy. Persons will, therefore, be compelled to endure all the difficulties which may spring out of the laws passed by the board of education rather than go to the expense and trouble and submit to the loss of time, which will be incident to an appeal to the chancellor, who alone can decide these questions. Such a system as this will close the door effectually against a majority of the people of this State, having a settlement of questions relating to school matters; and, instead of bringing the school system home to the people, instead of giving them control over it, it will effectually remove it from them.

Another objection which I have to this system is this. This chancellor depends upon the Board of Education for his official existence, for the Board are to appoint him and give him his powers. I ask whether there is not a temptation placed in the way of this chancellor. Suppose a conflict should come up in relation to a law passed by the Board of Education under the eighth section, and another passed by the General Assembly, under the thirteenth section. How would the chancellor be most likely to decide? We must suppose that a chancellor appointed by this Board will be subject to all the infirmities of human nature; that he will be most likely to lean towards his own friends, and if any partiality is shown at all, his decision will be in favor of the power that created him, and gave him life and jurisdiction. It is true that an appeal is provided to the Supreme Court, but in that instance you have your remedy for carrying the matter to the highest tribunal of the State, only at the end of the litigation, so that in this respect the system is highly objectionable.

The gentleman from Des Moines complains of the last legislature, and of prior legislatures of this State, that they have not given sufficient time to the investigation of the common schools of this State; that they have not bestowed sufficient time upon the school laws of this State. I know very well that the last legislature had the disposition to remedy the defects in the school laws, but they were not able to do it. And why? Because, under the old system, so much corruption had crept into the system, that the time of the legislature was taken up in ferreting it out; and they were unable, therefore, to bestow the time that they otherwise would have done upon the general school laws. It was not the want of disposition on their part to remedy the defects that existed in the system, but because they had not absolutely the time to do it.

I am in favor of abolishing the office of superintendent of public instruction. I believe that the common schools of this State will be benefited by the abolition of this office, and the establishment of a Board of Education; and I believe it for this reason. Take the past history of this State, or of any other State, where they have had this office of Superintendent of Public Instruction, and it will be found that no one man can attend to the duties devolving upon that office; that no one man can bestow a sufficient amount of time and care upon it, in order to discharge its duties in a manner that will redound to the benefit of the State, and the interests of the schools at large.

If we abolish this office, and establish a Board of Education, we can have men elected in different portions of the State, under whose control and supervision the school system of the State will be placed; we can thus bring sentiment to bear directly upon the counsels of the Board in such a manner as will lead to a better system for common schools in the State, than we can possibly have under the old system of Superintendent of Public Instruction.

For these reasons I am in favor of abolishing that office, and establishing this Board of Education, but I cannot go to the length of establishing such a system as that provided in the majority report.

I am opposed to giving legislative powers to this Board of Education, for the reason that I

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consider it would be setting a dangerous precedent. I can see no reason for giving these powers to this Board, which would not also apply to any other department of the State government. The gentleman from Des Moines says that he wishes to keep this department of the government free from any other department. Keep it independent, he says, and it will add dignity, character, and effect to its decisions. Let me ask the gentleman, whether the same argument will not apply in relation to the Executive Department of the Government. Suppose that you confer upon the Governor, Auditor, Secretary of State, or any other officer of State, powers to make all needful rules and regulations requisite to carry on the Executive Department of the Government; is not the argument just as strong? Sever that department from the Legislative Department and you would give it character and importance in the same degree that you would to this Board of Education. Apply the same rule in relation to the Legislative Department. Sever that entirely from the other departments, and let no other department have any control over it. Take the Judicial department. We have had arguments here in favor of preserving the dignity and independence of that body; and gentlemen have contended that their salaries should be fixed in the constitution, and not be dependent upon the action of the Legislature. Very well; why not confer upon the Judicial Department of the State the power to make all necessary rules and regulations for carrying into effect the Judicial system of the State, and thereby increase the dignity and importance of that branch of the government? If the argument is good in one case, it is good in another.

The gentleman from Des Moines also remarked, that in proportion to the power and permanency you give an officer, in like proportion you give him character and efficiency. It seems to me that argument would operate against our republican form of government. If that be the case a monarchy has more power and permanency than a republic. A monarch has more power and permanency, and according to this argument more character and efficiency than a President or a Governor. The argument goes too far and falls of its own weight.

It seems to me that there are questions growing out of this report, which ought to be carefully considered and investigated by this body, for upon this report, in my opinion, depends the very welfare and interest of the common schools of this state. I am satisfied that no member can be more impressed with the importance of protecting the educational interests of the state than I am. I am satisfied that all the members of this convention feel a deep interest in this subject, and none more so than the gentleman from Des Moines, [Mr. Hall.] We must all feel deeply upon this subject, for we all know that upon the intelligence of the masses depend the perpetuity of our government and the safety of our institutions. We know that after all the intelligence of the people is the great bulwark to the stability and permanency of our institutions, and looking upon it in that light, it is our duty, our absolute and imperative duty, to provide the best method and the best means for carrying into effect the common school system of the state. In determining which is the most practicable method of arriving at this result, I cannot view the question in the same light in which the gentleman from Des Moines views it. I give him credit for sincerity and honesty in the views he has submitted in his report, for I think he has the best interests of the educational department of this state at heart. I believe he is acting fairly, honestly, and zealously in this behalf; but I must be compelled to differ with him in relation to the scheme which he has presented. He has presented some strong arguments in favor of his report, but none of them have been sufficient to overcome the objections which I have to the system proposed by him. I shall, therefore, support the motion made by the gentleman from Lee, [Mr. Johnston.]

Mr. HALL. If the committee will indulge me, perhaps I shall be able to answer all the objections that gentlemen have urged against this majority report. I wish to reiterate what I said at the beginning of this discussion, that I did not suppose that the details of the system which this majority report presents, were perfect or beyond criticism. I again call upon gentlemen of the convention to adopt the principle which it contains, and aid me with their judgment, experience and ability in perfecting the system which the majority report proposes for your adoption. When I say this, I have answered four out of every five objections that have been urged against it.

The main and the primary objection, and one which I have already endeavored to answer, to the system proposed by the majority report is, that it sets up a fourth branch of the government. It does no such thing; it does not take or profess to take from the general assembly any legislative authority over this subject of schools. If gentlemen wish to guard this matter more definitely than it is guarded in this report, let them re-assert the power of the legislature, which is already asserted in the constitution. This report only gives to this board the same power in the common school interests of the state which you give to the corporations of cities, when they are incorporated under your laws. Our cities have legislative powers. They designate and punish crimes by fines and imprisonment; they pass laws for the regulation of their internal police, and for all matters that pertain to the government of a city. They are a power within a power. There is a necessity for the exercise of these powers on their part. You cannot make a general law for cities which will answer the wants of the whole state; and hence you confer upon the citizens of each city legislative power made effective through a common council. In every department of life where there is an every day neces

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sity for the exercise of these powers, they have been granted by the legislature or by constitutional authority; and the power of exercising these rights and controlling these matters is just the same, whether it comes through the legislature or the constitution. The question is whether the power here asked shall be conferred upon this board by constitutional provision, or whether it shall be left to legislative enactment; whether power, character and influence shall be given to this board by the primary law of the state or whether it shall be composed of officers who shall be mere automatons, mere machines to carry out the will of the legislature, as it may be expressed whenever they may meet.

If gentlemen will look to the journals of the Legislature, for the last ten years, they will find that that body has not spent thirty hours in the consideration of common schools; a subject in which so large a majority of our citizens take so deep an interest. We have had the experience of ten years of the Legislature upon this subject—a body with which gentlemen are so deeply in love, and in which they have so great confidence, and to which they say we would do so much better to entrust the interests of common schools. And what has it done within these ten years to advance the educational interests of the State?

In considering this matter and reflecting upon it, I desire to go back to the old laws upon this subject, see the evils resulting from them, and devise a suitable remedy therefor, if possible. I have found the old laws deficient in every particular; I have found that in all the legislation upon this subject, there has been one continual clashing and changing. When the code was made, they patched and patched up the laws upon this subject in such a manner when they undertook to modify them, that they are almost inexplicable, and worse than no laws at all. I find that with ten years experience of legislation, the subject of education has been neglected more than any other matter which has been presented to the notice of the General Assembly.

I am, therefore, in view of these considerations, in favor of taking this matter entirely out of the power of the Legislature, and putting it into the hands of another body, who will better represent the interests of the people. I am for putting it into the hands of a body that shall have no control over the funds, and which cannot possibly be influenced by party considerations. Such a body as I propose, will be uninfluenced by partizan feelings and considerations, and their whole and undivided attention will be given to the benefit and improvement of the educational interests of the State. Now, gentlemen beg the question, when they undertake to say that these persons who are elected by the people for this specific purpose, are going to make laws which will come in conflict with the action of the General Assembly.

One gentleman says here, that the people are not the proper persons to appoint the officers of this Board of Education. Let me say to the gentleman, that to the people, peculiarly, should the interests of common schools be confided; for interest in this subject begins in the family, and the cause of education is especially dear to all parents and guardians. The nearer you can bring it home to them, and the farther you can remove it from the arena of political broils and contentions, the better will it be for the prosperity of the State, and the good of the people. Let us take it away from the halls of legislation, where, for the last ten years, they have given it so little consideration, and where we have had nothing but changing and clashing laws upon this subject. It is for this that I am so earnestly contending here, and I believe sincerely, that such a system as the majority have recommended, would meet with the support of the people.

Gentlemen say that this takes the school system out of the hands of the people. Sir, it gives it into the hands of the people. It gives strength to the heart of the man who has children to educate, for he feels that he is not dependent upon a legislature who have been elected and come together to represent party feeling in the most intense form in which it is ever found to exist in legislative bodies. He feels that he has a home to go to; a tribunal where none of these considerations occupy their attention. Is my argument a reproach to the General Assembly of this State? If it is, it is not because I use it. It is because the record convicts them. It is because the history tells it. It is because their own journal proves it. I wish gentlemen to understand this; and if they are disposed to sever this system from the legislative department of the State; if they are disposed to let it stand by itself; if they are disposed to let those interested in the subject look around and select a tribunal to which this subject shall go, so as not to mix it up with the ten thousand other things that pertain to the social system, let them act with me and sustain this report. If they are not satisfied with its details, let it be amended.

The gentleman from Davis [Mr. Palmer] says that we shall have to give the Board of Education the control of the funds. I never knew that gentleman so completely mistaken. This system compels the legislature to divide the State into sixteen educational districts, among which the money is to be distributed in proportion to the number of unmarried youths between the ages of five and twenty-one years. This is to be an equal distribution, and is made the duty of the legislature. The Board of Education provide the schools; they furnish the consideration for the money; they decide when the money shall be paid, and paid because it has been earned, and they superintend the establishment of the schools. This is made their duty. There can only be danger if we pre-suppose that the legislature will trample upon the constitution, and that the Educational Board will also trample upon the constitution. The

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argument amounts to nothing, because it is presuming crime—a presumption which is not allowable here. The different departments are completely severed. As I said on yesterday, if this Board of Education should go to any extraordinary length; if they should undertake to become pirates, of which I have not the least apprehension in the world, the legislature, as will be seen by a clause in that report, remains supreme and can control them. They have the veto power, and they can use it. But I have no idea that there will be one instance of that in ten years. You would not find any conflict, because they are all members of the same great family—all members of society; and there is a deep and abiding feeling in favor of institutions of learning which all will be willing to corroborate. But all cannot stop to think—all cannot stop to reason.

In regard to this Chancellor, it is a matter of no consequence to me whether that office is there or not. I am not arguing to sustain it, except as a matter of convenience. We have had the office ever since we have been a State. Every State in the Union which has adopted any school system at all, has that office, under some name or other. We shall probably have the office in some shape or form. I find that the commissioners of the county perform the duty, for instance, in one State, the superintendent of public instruction in another. In New York the secretary of state, or deputy of the secretary of state is the chancellor, and has exercised that power ever since my recollection. There is no inconvenience connected with the office in other States. The principle exists everywhere. You cannot go anywhere, without finding that these little questions of the dividing up of small districts, the positions of the school-houses, and a thousand and one other little questions, would not endanger the harmonizing operation of the school system, and produce injurious effects, moral and social, if no remedy were provided. These questions will constantly arise, and we need a quiet silent way of settling them, without submitting them to the arbitration of the courts; ministerial, if you please, for most of these things, become ministerial, not involving judicial questions, and may be settled silently without producing the disturbing elements which judicial decisions always produce.

I hope gentlemen are satisfied in regard to the legislature refusing to give the School Board the whole of the proceeds to be devoted to education. The article provides that they shall be distributed, and if the legislature violate the constitution, is that an argument to show that we should not have a constitution? The argument destroys itself; it annihilates itself. Because the Board may violate the constitution, are we then free to conclude that we should not have a constitution? Would they violate it any the less, if their duties were assigned in the form of law? Would a law, coming from the legislative department, have more influence with the Board, than a provision in the constitution of the State which they are all sworn to obey before they enter upon the duties of their office? It strikes me that there is no argument in this; none at all. This report is too definite, it gives the matter too much shape, too much vitality, to permit it. And that is another great objection to the report. Gentlemen look at it, stare at it, as if they had never seen such a thing before. The idea of such a school system, of a department specially formed to furnish the primary rules of government, a department devoted singly to that particular interest, is new in this State. I know this is new; and I do not advocate this in the report without the most careful consideration. Let me tell gentlemen that if they will do as I have done, I think they will modify their views.

In my early life I was for years engaged in teaching. The little education that I have, was acquired while teaching in common schools, when I went from house to house to board out, according to the proportion of the scholars sent, three days in one place, five days in another, a week in another, and so on. For years I followed that business, supporting myself and educating myself by that process. I have not forgotten the minutiæ or the workings of that system. They are fresh in my mind, as it were of yesterday. Since I have been aware that I was to be a member of this convention, and that it would be my duty here to consider this subject, I have talked with a hundred men in this State, the most intelligent among our farmers, and I have inquired of them their difficulties and troubles in relation to the school system, where they wanted aid, where they wanted a remedy; and they have told me honestly and truthfully. They are the men who have provided me with my arguments. They have had experience in the practical workings of our system. They have been trying to make it succeed; and they find that the constant changes in the law, and the want of attention to the law, clog them and have been a barrier to them in some instances, so that the system has done them more injury than good. This, they have told me, is the practical effect of our present system of school districts. I have talked with many of these men, and while I have been here I have never lost an opportunity of conversing with every man I could find with any intelligence upon this subject. I have obtained my experience from the fountain-head, from the father, from the guardian, from those trying and anxious to make the system succeed, who have struggled along for ten years with this system, who have had families to educate, and have only been able to rely upon this common school system to educate them. I must ask a little favor, and a little charity, of our bachelor friends who have no children to educate. We must look to those who are striving to educate their children, and allow full weight to their testimony and their experience.

I hope we shall in this constitution turn this over to a tribunal as pure as it can be made;

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even if it should come from the muddy mire of politics, it will yet be as pure as we can find. If we can only get the Board from that muddy pool, it is no objection at all; for we shall not take them indiscriminately, but select the purest we can find. And there is not a gentleman here who would deny that if we were to take twelve or eighteen members of the legislature, drawn by lot, they would devise a better system, and the schools would be better controlled, better organized, and more efficient, than if the subject were to be left to the whole legislature, to take its place with a multitude of others claiming prior attention, and thus to be neglected while members are attending to other duties. And if gentlemen will concede this, as I am sure they will, why should they stand here fearful lest in turning this matter over to stand by itself, appealing to the benevolence as well as the justice of the people, you are about to destroy it? Why should they suppose that it has within it the seeds of disorganization and decay? If its success and prosperity do not reside in the hearts of persons interested, in the fathers and mothers and guardians of the country, where will you find them? Cannot these persons select? Are they not sufficiently interested to make a proper selection? Does all the patriotism in our State linger in the hearts of the members of our legislature? It would seem so. It would seem that gentlemen are very much alarmed lest this matter should be left to the man who educates his children, lest it should be left to the heads of families. They are afraid there will be too much form. They are afraid that we shall give this system, when it comes into existence, life and vitality, power to regulate, power to perform, strength and character. This is what they are afraid of.

If you put a man into the position of a mere copyist; if you make him a mere automaton, a mere follower, you shut out the lights of his intellect; you crush the power to rise, you tear asunder all the inducements to ambition. You make of him a mere nothing. And yet you expect this common school system to flourish. I would give to those who superintend the schools enough to employ their intellect. I would give them encouragement to inform themselves upon the subject. I would hold them responsible, intellectually, for what they have done. When you find men waking up to that responsibility, to feel an interest, and to know that their reputation depends upon the course they pursue, you will see the result. If you will only give these men something to make a reputation out of, you will find that ambition is not an antidote to liberty, but one of its incentives; and when combined with virtue, with that as a polar star, we have nothing to fear.

Now I wish to urge it upon gentlemen here to think upon this subject, to look at it. I do not care how much time you take for deliberation, for they will feel conscious that this matter is right, that this plan is the best we can adopt, and the only one we can adopt, which will give dignity, character and stability to the institutions, we all profess to admire and desire to cherish. I have reflected much upon this subject. I know that I am far beneath what I ought to be. I know that my views have not had culture enough; but still I think I have investigated the subject more than some gentlemen here. I hope gentlemen will not strike this out without consideration. I hope they will not be satisfied with merely finding fault, without proposing any amendment to remedy the fault.

One word with regard to the minority report, although, perhaps, I said enough upon that yesterday. The minority report is meaningless. It has no efficiency. When the people ask for bread it gives them but a stone. It has no vitality. It has no character. It is nothing but an automaton. It is a man of straw. It is just like what we have always had; and that is the reason given why we should adopt it. You cannot make our present system worse. If you go out of the frying pan into the fire, your condition is no worse by the change. That is no argument at all. Are you afraid? Are you apprehensive? Of what? Because you give character, stability, strength, independence to the system? Because you call for efforts of mind? Because you hold men responsible for something? I hope this convention will not adjourn until they create a school department. Are they afraid to give it that dignity, lest it should overwhelm the legislature, the executive, and judiciary departments, and over-ride them all? And what if it could exercise a controlling influence over them? Depend upon it that they are all but the children the offspring of this great principle for which I contend. Without it, they cannot long be what you are trying to make them. Do not be alarmed lest you should make this common school system a great monopoly. Do not be alarmed lest it should become a despot, and you should see the hand of the tyrant in this matter. If you can give efficiency to the common school system; if you can put the book into the hands of the child, and teach him to read and to write, and give to him the rudiments of learning, if you can inoculate him with a true love of science and virtue, and if that is to bring tyrants here, I do not care how thick or how fast they come. It will be the tyranny of reason, the tyranny of intellect, the tyranny of morality. It will be a tyranny that will make every virtue to abound, which can adorn society. This will never endanger our liberties. You cannot, by holding out to the child the love of knowledge, make him the friend of despotism. You cannot, by giving efficiency to that which brings education and intelligence into the land, nurse the viper of tyranny or despotism.

Perhaps I have occupied more time than I should; but I repeat again that I ask the convention to consider most thoroughly all the principles contained in this report, which is to give independence to the school interest, which

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is to sever and divorce it from that great political cauldron which forever boils and bubbels throughout the State. Let it have a chance to breathe, where it may not inhale the festering atmosphere of political excitement. Give it a chance to rise, without being clogged by inattention, as it has been heretofore. That is what I ask, and expect the convention to do.

Mr. WILSON. I may not be able to understand the argument of the gentleman. Certainly I have no disposition to misunderstand it. But he tells us that the Legislature is still to have full power to legislate upon the school system of the State. That is one thing I cannot understand. I cannot understand how it is that the power conferred by the eighth section of the majority report, upon the board of education, is to have any effect, if still the General Assembly of the State retain the power to legislate in relation to the subject. The provision that the gentleman has incorporated into that section is almost the identical provision incorporated in the Constitution of the United States in relation to the territories, and which has been the occasion of so many conflicting opinions in this country. It provides that the board of education shall have power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning. What does that mean, if the General Assembly is to have the power to legislate for the schools of the State? What does "said board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning" mean, if it does not mean that upon this board of education the Constitution will confer legislative jurisdiction? I cannot understand it in any other light. If that be the case, and if that power is to be retained in the hands of the General Assembly, I ask whether the argument which the gentleman presents against retaining that power does not refute his argument in favor of this report. He tells us that the General Assembly of the State, since the organization of the State government, have not spent thirty hours in legislating for the schools of the State. I think the gentleman is mistaken; but suppose that to be the case. In his explanation of the report, I understand him to say that this very General Assembly which has been so derelict in the performance of its duty, which has refused to spend more than thirty hours, within the history of the State, on the school system of the State, is still to retain the legislative jurisdiction in relation to those schools. I cannot make these arguments harmonize. I wish to understand the gentleman in relation to them. I do not make these remarks by way of complaint, but simply to gain information, that I may understand his argument in favor of the report of which he has probably been the originator.

Mr. PALMER. The gentleman from Des Moines, [Mr. Hall,] says that I have overlooked a provision of this report. I see that the seventeenth section provides:

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of unmarried youth, between the ages of five and twenty-one years."

I had read that, but it does not say under whose control it shall be.

Mr. HALL. That is in the sixteenth section.

Mr. PALMER. The sixteenth section provides:

"The financial agents of the school funds shall be the same that by law receive and control the State and county revenue for other civil purposes."

What I suggested was, that either the Legislature or the board of education would have to be entrusted with the control of the fund after all. The funds are distributed. What officers are entitled to draw it? and what penalties are affixed in case of a refusal to do their duty? I suppose it is contemplated that the county treasurers shall have the fund due to their respective counties; but then there is some provision to be made as to what officers shall be entitled to draw from the county treasurer. This sixteenth section merely provides that the General Assembly shall distribute the money, or that it shall be distributed under laws enacted by the General Assembly. I should have no objection to giving the control of these funds to the board of education; but they should provide rules for the distribution of the fund in the different counties and among the different districts. I do not urge this as an objection against the report absolutely, but only as a difficulty not provided for in the details of the report, and as a difficulty that may embarass legislation, the article being so indefinite.

Mr. HALL. I leave, by the first section, the legislative department undisturbed. I do not wish, as I have said before, to go into any argument upon a mere matter of criticism. If this is not as I explain it, let us make it so. That is easily done. It is the principle which I contend for. There is no conflict between this report and the legislative department. If the legislature should choose to assert its power to revoke, they would have the same authority that they have over a city charter. This becomes a charter. The eighth section prescribes every power that the board shall have. It says:

"Said board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university funds of the State."

The whole power in regard to the free schools themselves. That is what I intended, and I think that is the fair construction of the section. Criticism may find fault, but criticisms merely finding fault with the form, can always be made. The sections already quoted show that the financial agents are in this civil department entirely, that the whole business is transacted through

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the civil department of the government; and the seventh section provides:

"All rules and regulations made by the Board shall be published and distributed to the several counties, townships, and such school districts as may be provided for by said Board, and when so passed, published and distributed, they shall the force and effect of law."

The school system is formed by this board, which is responsible for the proper use of the fund when it is provided. The civil department holds the funds, and the persons who have earned it, draw it. There seems to me to be no want of harmony. It is as perfect as machinery can be made, as it strikes me. I hope gentlemen will vote for the principle. I have no doubt that amendments can be made, and I invite amendment; for I have no doubt that a great many salutary provisions have been overlooked. I do not present the system as absolutely perfect, but merely as perfect as I have been able to make it, and I do think that the main proposition of this report should be preserved.

Mr. SKIFF. There has not been a subject presented to the convention during the session upon which I have felt so unprepared to act as this, because I do not think any subject has been presented of as much importance as this. An innovation is proposed by this majority report, a very great innovation, upon our previous school system in this State, or rather our want of system, because heretofore we have not had any system at all, and here is a system proposed.

I have looked it over with considerable care and attention, and have listened with a great deal of interest to the remarks which have been made here; and I have noticed that the convention have also. I am satisfied that the convention are very deeply interested in this subject, and if they do not concur in one of these reports, either majority or the minority, it will be from the fear that they are about to adopt something that may prove injurious. For my own part, I believe that I have settled down rather in favor of the majority report. I think it is more systematic than the minority report, and will work better in its practical operations. I have not made up my mind in relation to all the details, but as a system, I like it better.

The plan proposed by the gentleman frem Cedar [Mr. Gower] in relation to the school fund, is a little more in detail than this report, although, as I understand it, it amounts to about the same.

The sixteenth section provides:

"The financial agents of the school fund shall be the same, that by law receive and control the State and county revenue for other civil purposes."

That is about the same as the gentleman from Cedar proposes. So I do not consider his amendment as affecting the report in any respect at all. The district schools of the State are now unsystematized; there is no system about them. No plan has ever been adopted in relation to them. While Mr. Benton held the office of superintendent he proposed a plan; but it was never really carried into effect; and now the want of system is very lamentable indeed. There is no regular system of books in the different schools of the State. Every district, and every school, has just such books as the scholars choose to bring, from the most antiquated books, those that our grandfathers used to study, down to the most modern and improved school books. I think the board of education would make a uniform system in relation to school books. I understand that to be proposed; and that is a desideratum which we all should desire to have afforded at once. Unless a uniformity in school books can be secured the school cannot be made profitable.

I can appreciate the gentleman's zeal very much, because I have been a school teacher myself in my former days; and I know that when I have been in a community where there was no interest taken in the school, it was very difficult for me to get up an interest myself. If there should be a board of education, as proposed in the majority report, it is reasonable to presume that it will be such a board as is contemplated in the report, and in the gentleman's speeches; and I am very confident that by the establishment of such a board the interests of the common schools of this state will be greatly advanced, and that the great educational interests of the people in the higher departments, the college and the university, will not be overlooked. But the college and the university are of far less importance than the commcn school. It is that which has more graduates than any other. It is the children of the people who are taught in the common school, and it is they who go on finally, in many cases, to become members of the college and the university. But the education of the common school is the education given in the early years of life, those years in which we learn the most, those years in which we imbibe notions of more consequence to us, for good or evil, than all we learn in after years.

Hence, I am inclined, as I have said, to the opinion that we cannot do better than to support the system proposed in the majority report. I have vascillated somewhat from one side to the other during this discussion, I will admit; but upon comparing the two reports, and I ask every member of the convention to compare them, I have concluded that the majority report is preferable. If there is any improvement that can be made in it, the convention will undoubtedly be willing to adopt it.

I am very glad to get out of the party strife in which we have been for a few days past. For one, I can say, if the convention were to consume a week in deliberation upon this subject, I should not at all begrudge the time. I think we are now in a channel which will enable us to do some good to the State, and to acquire

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some credit for ourselves. I said yesterday that I did not want this subject acted upon rashly or unadvisedly; and if other gentlemen are not now prepared to act upon it, I should be willing to vote that the committee rise and ask leave to sit again. For my own part, believing the general features of the majority report to be correct, I am prepared to vote.

Mr. MARVIN. I feel disposed to make a few remarks upon the subject before the committee, not because I feel competent to instruct the committee, nor because I can give any light, but because I feel a great deal of interest in this question. I need not repeat the remarks that have been made in relation to the importance of the subject.

When I say to the convention that I am a father; that I have been a guardian, and that for many years I have had this subject near to me, that I am connected with those to whom I am bound by the laws of nature and every principle of humanity, to look to their future welfare, and that I have had that welfare in view, it will explain why I have taken so deep an interest directly in the subject of education. I have all through life, and since I have been a father, and since I have been a guardian, found fault with our school systems. The different states in which I have lived have not been up to what they should be. I came here with that feeling, though I did not anticipate that any further responsibility would be placed upon me in relation to the subject than rested upon every member of the convention.

Had the bill which was before the legislature been passed, with some few amendments, I believe that to a certain extent it would have met the wants of the community. But it did not. When I was placed upon this committee, I was pleased to find one at least upon the committee who felt more interest, if possible, than I did, in this matter, or who had at least turned his attention more particularly into that channel; and I refer to the honorable member to whom we attribute this report, [Mr. Hall.] He had given it his almost undivided attention for a long time. He had to a certain extent matured the plan now before the house. The committee will admit at once that the plan has originated almost entirely with him. Finding that his mind had been drawn to the subject, feeling our wants and necessities, feeling the absolute inefficiency of the present system, I rejoiced that he had so nearly matured a system which he was ready to recommend for our adoption. If we had supposed that we should have had so long a time before the subject had been acted upon, we might perhaps have given it more attention, and made it even better than it now is. At the time I believed it to be the best we could adopt, and I am now not very far from the same feeling. I will admit that upon more mature reflection, I think I can see places where we might perhaps amend it.

But sir, the fact that this is new, and is now proposed to be placed in so important and so permanent a condition, is to me no objection. We have seen the vacillations of the legislature; it can vie with other states in that; and this vacillation is destruction always to the best interests of schools. I am fully convinced that several members do not fully comprehend the power conferred upon the board of education in the eighth section. That section is in these words;

"Said Board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university fund of the state."

I think that section seven of the statutes of Ohio upon this subject by the board of directors in each district shall have power almost equal to those asked for here. They have power to make such rules and regulations for the government and management of the schools in the townships as they shall see fit. The language does not amount to much; that may be waived. The object is to have a uniform and harmonious plan all through our common school system, and all other educational systems in the state. The section contemplates that rules and regulations for the government and managemen of the schools shall be adopted; that text books shall be selected and established; that the best modes for the government of the scholars shall be recommended; and that whatever you establish in Dubuque, shall also be established in the most distant parts of the west of our state; that a teacher who has commenced his business of teaching in Clayton county, may go to the extreme south-west of the state and find no change in relation to the system in which he is engaged. He shall there find the same text-books; he shall there find the same rules regulating the scholars; and he is perfectly prepared to enter at once upon his duties. If we can once adopt that, we shall stand eminently ahead of the other states.

In traveling a few years ago in different parts of Ohio, I had an opportunity to visit several schools, and I did so, having no other business which particularly called my attention. I was not then engaged in teaching, but had I been teaching upon the Reserve at that time, and then gone into that section of the state to teach school, I might well have imagined that I was out of the state of Ohio. I should have been thrown back at least thirty years, as to the studies, the management of the scholars, in almost every particular. Their books were those I had learned from when a little child; and the whole system was so much better than to which I had been accustomed, that I could not have adapted myself to thus teaching them for a long while. Such was the want of uniformity in the different parts of the state of Ohio. And I apprehend that the diversity is as great in this state. Go into some schools and you would almost fancy yourself in New-York or New England; everything is in order; clean books and

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text-books are of the proper stamp, the rules of government and for the regulation of the scholars are all correct. But traveling half a day, you will fancy yourself in Egypt or in some dark corner of the earth. Everything is out of joint. The proposition of the eighth section, I understand to be to make a system that shall be uniform. I need not have dwelt so long upon that section; but I am convinced that many have misapprehended its force, and for this reason I have made these remarks upon it.

It is proposed in the eighteenth section to appoint a chancellor:

"Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court."

Now, sir, I do not know what will be the full extent of the powers of that Chancellor. But who of us, who have for years felt an interest in this subject of education, has not seen the lamentable consequences which townships and communities have been thrown into by some little question raised in a school district? An obstinate man in that district, perhaps, refusing to pay some little tax, or to submit to some little regulation, has created a difficulty. I have now in my eye the township from which I came. A little affair, perhaps, of very small consequence at the commencement, was carried on from year to year, from court to court, from the justice of the peace to the county court, &c., and finally to the supreme court; costing that district more, in the defence of their position, which, I believe, was finally sustained, than enough to build a new school house, of sufficient dimensions to accommodate a large school. It retarded the progress of education in that district. During the whole time that case was pending, there was a quarrel and excitement constantly disturbing their harmony. And it strikes me that if we had had a Chancellor to decide such minor questions at the outset, all that difficulty would have been avoided. We should have arrived at the conclusion without that foolish litigation in the courts, which are always calculated to create hard feelings among those engaged in them. For that reason, unless gentlemen of this convention can convince me that it will have a tendency to injure the interests of the school, I should be disposed to retain that section.

I acknowledge that I think there is a deficiency in the fifth section. The Board are called into actual service twenty days only in the year. I strikes me that to give it full efficiency there should be a superintending care all the year round, and for that care, and so much service as they may be called upon to render, they should receive compensation. They should be empowered to establish such institutions in their districts as will promote the best interests of the schools. They should be empowered to visit the schools, more or less, and to make such recommendations as they shall see fit. They should be empowered to lecture in the county seats, and other localities, where there is an interest in this matter; to attend the meetings of associations that may be formed by teachers, to establish teachers' institutes, and to give efficiency to them. There is nothing I can think of, in looking back upon these things, better calculated to call forth the universal interest of the community than a teachers' institute, if you can have an able man there to impress the mind with important ideas connected with the institutions of the State. But I know that these things are more properly the details of legislative action than subjects for introduction into a constitution. But if this is to be adopted, I would entrust the Board with more powers, and more duties, than are here conferred upon them.

I had not intended to speak upon this subject; but there seemed to be a dullness in the minds of members of the convention in relation to this subject, which I was sorry to see, even in the opposition to the report. If gentlemen opposed to this system will only come forward with a warm opposition, it may kindle a fire in favor o it, and do much good. I am not afraid of consuming the day upon it. It demands our attention. Our constituents will be rejoiced to learn that we have spent one day at least upon the subject of education. I ask members upon both sides thoroughly to investigate the subject. Having been further enlightened as to the reasons for opposing this report, it may be that I shall hereafter be disposed to express my views further in relation to it; but for the present I will yield the floor.

Mr. GOWER. I wish to say that I have taken a deep interest in the schools of this State, arising in a measure from the wants of my own family; and since I have been a member of this convention, I have given much of my attention to this subject. I have prepared three sons for college in this place. I patronized the first high school ever created in this place, and I have continued it until I have prepared three sons in this place for college. Those sons have graduated. I have taken an interest in education ever since I have been in the State of Iowa. I have thought for some time that our funds were not applied in the best manner. It has been spoken of in my district that they were badly applied; and when the amendment of the constitution was proposed, it was suggested to me that we attend to the school fund and to the educational interests of the State. As for myself, I felt, at first, more interested in the establishlishment of a University, preserving that fund entire, and the common school fund entire, than upon any other branch of the subject. I see that the seventeenth section provides:

"The money subject to the support and maintenance of common schools, shall be distributed to the districts in proportion to the number of unmarried youths, between the ages of five and twenty-one years."

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I think the proper person to receive the fund would be the county treasurer. By my arrangement for the school fund, it is to be paid out by the state treasurer. The auditor of the state treasury is to distribute it to the county treasurers, through whom the Board shall receive the fund. My object is, to consolidate that, to keep it together, not to have it subject to so much legislation and financiering, as we have seen. That would be a continual source of conflict. I notice in the first section of this article that it appears to contemplate that the Board shall take the entire control of the educational interests of the State. If they are also to take charge of the fund, it strikes me that it is too much of a load.

Mr. SKIFF moved that the committee rise, report progress, and ask leave to sit again.

The motion was agreed to.

In Convention.

The PRESIDENT having resumed the chair,

The CHAIRMAN of the Committee of the Whole reported that they had had under consideration the subject of Education and School Lands, had made some progress therein, and asked leave to sit again.

The report of the committee of the whole was received, and leave granted accordingly.

Legislative Department.

Mr. GRAY. I wish to call the attention of the convention to some incongruities that exist in the different sections of the article upon the legislative department, as we have ordered it to be engrossed. Section eight provides that—

"A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties as each House may provide."

Section sixteen provides that—

"Every bill which shall have passed the General Assembly shall, before it becomes a law, be presented to the Governor. If he approves, he shall sign it; but if not, he shall return it with his objections, to the House in which it originated, which shall enter the same upon the journal, and proceed to reconsider it; if, after such reconsideration, it again pass both Houses, by yeas and nays, by a majority of *two-thirds of the members of each House present*, it shall become a law, notwithstanding the Governor's objections."

Section seventeen provides that—

"No bill shall be passed unless by the assent of a *majority of all the members elected to each branch* of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal."

It will be seen by these sections that to pass a bill in the first place, there is required a concurrence of all the members elected to each branch of the General Assembly. A majority of each house shall constitute a quorum to do business, which business may be the reconsideration of a bill which the Governor has vetoed, which can be re-passed by two-thirds of that quorum. Thus a majority alone of all the members elected can pass a bill in the first place, while a little over one-third of the members elected may pass it after it has been vetoed. For instance, the lower house may consist of one hundred members. A quorum would be the majority, fifty-one, which is the number required to pass a bill in the first place. If the Governor sends that bill back with his veto, while a quorum of fifty-one are transacting business, thirty-four may pass that bill over his veto.

Now I do not think this is exactly what we meant to do. I suppose it is within the power of the convention to reach this matter, though I do not know exactly how it can be done. I call attention to the matter now as the article has been ordered to its third reading.

The PRESIDENT. When the article comes up on its third reading, it can be recommitted to the committee on the legislative department for any amendment that may be desired.

Mr. GRAY. That is all I desire. I merely wish to call the attention of members to the matter.

Enrolling the Journal.

Mr. CLARKE, of Johnson. I offer the following resolution:

"*Resolved*, That it shall be made the duty of the Secretary to prepare an enrolled copy of the journal of the convention, and of the constitution, which journal shall be signed by the President and the Secretaries, and filed in the office of the Secretary of State."

I am induced to submit this resolution from a conviction that there ought to be some provision made for preserving in the archives of this State, the proceedings of this convention. We have already had two conventions for the formation of a constitution for this State; but there is not among the archives of this State a single evidence of that fact. There is nothing of an official character to show to future historians that we have had these conventions in this State. And there is another fact, that of all the copies of the journal of the former convention, but two can be found within the reach of members of this convention. I have, myself, one copy of the journal of each of our former conventions, and one other member here has a copy of the journal of the last convention.

Now it seems to me that we ought to guard against this state of things in the future. I think this convention ought to provide for depositing in the office of the Secretary of State an enrolled copy of the journal of the proceed-

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ings of this Convention. And it is with this view that I have prepared and offered this resolution.

The question being then taken upon the resolution, it was agreed to.

Compensation of Officers of the Convention.

Mr. JOHNSTON. In order to facilitate the duties of the Committee on Accounts and Expenditures, I offer the following resolution:

Resolved, That the compensation of the officers of the convention shall be as follows:

Thomas J. Saunders, Secretary, —— dollars per diem.

E. N Bates, Assistant Secretary, —— dollars per diem.

S. C. Trowbridge, Sergeant-at-Arms, —— dollars per diem.

Francis Thompson, Door-keeper, —— dollars per diem.

J. H. Merritt, First Fireman, —— dollars per diem.

John Quaintance, Second Fireman, —— dollars per diem.

James Hawkins, First Messenger, —— dollars per diem.

George Clearman, Second Messenger, —— dollars per diem.

Willis Conard, Third Messenger, —— dollars per diem.

I offer the resolution with the various amounts in blank, to be filled by the convention, in order that the Committee on Expenditures may be enabled to make out their report in due season:

THOMAS J. SAUNDERS, *Secretary.*

Mr. JOHNSTON. I move that the first blank in relation to the compensation of our Chief Secretary, be filled with the sum of six dollars. I believe it is customary to allow the Chief Secretary of our Senate and House of Representatives double the compensation of the members.

The question being taken upon the motion to fix the compensation of the principal Secretary at six dollars, it was agreed to.

E. N. BATES, *Assistant Secretary.*

The PRESIDENT stated the next question to be upon filling the blank in relation to the compensation of the Assistant Secretary.

Mr. TRAER moved to fill the blank with six dollars.

Mr. CLARKE, of Johnson. Is it usual in legislative bodies to give the Assistant Clerk or Secretary the same compensation that is given to the Chief Clerk or principal Secretary? If it is, I am willing to do so here.

Mr. TRAER. At the last session of our legislature, the appropriation for the journal was divided between the first and second Secretaries.

The question being taken upon filling the blank with the sum of six dollars, upon a division, it was not agreed to; ayes 7, noes 11.

Mr. PATTERSON moved to fill the blank with the sum of five dollars.

The question being taken, the motion was agreed to.

S. C. TROWBRIDGE, *Sergeant-at-Arms.*

The next blank was in relation to the compensation of the Sergeant-at-Arms.

Mr. TODHUNTER moved to fill the blank with the sum of three dollars.

The question being taken, the motion was agreed to.

FRANCIS THOMPSON, *Door-keeper.*

The next blank was in relation to the compensation of the Door-keeper.

Mr. WARREN moved to fill the blank with the sum of three dollars.

The motion was agreed to.

J. H. MERRITT, *First Fireman.*

The next blank was in relation to the compensation of the First Fireman.

Mr. TODHUNTER moved to fill the blank with the sum of three dollars.

The question being taken, the motion was agreed to.

JOHN QUAINTANCE, *Second Fireman.*

The next blank was in relation to the compensation of the Second Fireman.

Mr. CLARK, of Alamakee, moved to fill the blank with the sum of three dollars.

The question being taken, the motion was agreed to.

JAMES HAWKINS, *First Messenger.*

The next blank was in relation to the compensation of the First Messenger.

Mr. CLARK, of Alamakee, moved to fill the blank with the sum of two dollars and fifty cents.

Mr. WARREN moved to fill the blank with the sum of two dollars.

Mr. TRAER moved to fill the blank with the sum of one dollar and fifty cents.

The question being taken upon the motion to fill the blank with the sum of two dollars and fifty cents, upon a division, it was agreed to; ayes 15, noes 7.

GEORGE CLEARMAN, *Second Messenger.*

The next blank was in relation to the compensation of the Second Messenger.

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Mr. MARVIN moved to fill the blank with the sum of two dollars and fifty cents.

The question being taken, the motion was agreed to.

WILLIS CONARD, *Third Messenger.*

The next blank was in relation to the compensation of the Third Messenger.

Mr. MARVIN moved to fill the blank with the sum of two dollars and fifty cents.

The question being taken, the motion was agreed to.

The resolution, as amended, was then read as follows:

Resolved, That the compensation of the officers of the convention shall be as follows:

Thomas J. Saunders, Secretary, six dollars per diem.

E. N. Bates, Assistant Secretary, five dollars per diem.

S. C. Trowbridge, Sergeant-at-Arms, three dollars per diem.

Francis Thompson, Door-keeper, three dollars per diem.

J. H. Merritt, First Fireman, three dollars per diem.

John Quaintance, Second Fireman, three dollars per diem.

James Hawkins, First Messenger, two dollars and fifty cents per diem.

George Clearman, Second Messenger, two dollars and fifty cents per diem.

Willis Conard, Third Messenger, two dollars and fifty cents per diem.

The question being then taken upon the resolution, as amended, it was adopted.

Compensation of President of the Convention.

Mr. JOHNSTON offered the following resolution:

Resolved, That Hon. Francis Springer shall receive the sum of three dollars per day for his services as President of this Convention, in addition to his pay and mileage as member of the Convention.

Mr. CLARKE, of Henry. Is it not usual to double the mileage as well as the per diem of the presiding officers of bodies like this?

Mr. JOHNSTON. I think not.

The PRESIDENT stated that he did not desire it.

Mr. JOHNSTON. I will state that this resolution is drawn up in the usual form.

The question being taken upon the resolution, it was agreed to.

Compensation of the Chaplain.

Mr. SOLOMON. While we are upon this subject of fixing the compensation of those who are serving us, I would suggest the propriety of providing for paying our Chaplain.

Mr. CLARKE, of Johnson. I have prepared a resolution for that purpose, which I will submit; it is as follows:

Resolved, That the Chaplain be paid the sum of one hundred dollars for his services.

Mr. HALL. I move to insert after the word "hundred," the words, "and twenty-five," so as to give the Chaplain one hundred and twenty-five dollars.

Mr. TODHUNTER. I move to amend the resolution so as to allow our Chaplain the sum of three dollars per day, the same as is proposed to be given to our other officers.

Mr. HALL. I would prefer to decide upon some aggregate sum. The sum of one hundred and twenty-five dollars will amount, within a few dollars, to the same as three dollars per day.

Mr. JOHNSTON. I think we should fix upon some aggregate sum. I believe the sum voted by the legislature for their Chaplain was one hundred dollars.

Mr. CLARKE, of Johnson. I have no objection to the amendment of the gentleman from Des Moines, [Mr. Hall.] I fixed the sum at one hundred dollars at the suggestion of several members. I believe in paying preachers pretty well, for they are generally poor men. I will accept the amendment of the gentleman from Des Moines.

The resolution, as modified, proposed to give the Chaplain the sum of one hundred and twenty-five dollars for his services.

The question was upon the amendment proposed by Mr. Todhunter, to give the Chaplain three dollars a day.

Mr. SOLOMON. I prefer this amendment to the resolution as it now stands, for the reason that it will meet a contingency that may arise. We have resolved to adjourn on the fourth of March. Now, it is barely possible that we may be in session much longer; and as it is admitted that three dollars a day will come to about the same amount as that fixed by the resolution, I think we should adopt the amendment, so that, if we continue here in session beyond the fourth of March, the Chaplain will be paid accordingly.

Mr. TODHUNTER. My conviction, at the present time, is, that we will not get through in less than ten days. If so, we will have been in session something like fifty days, which, at three dollars a day, would give the chaplain one hundred and fifty dollars. It seems to me that he is one of the most important officers of this Convention; and to put his compensation at one hundred and twenty-five dollars, and thus re-

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duce it below the aggregate compensation of any of our other officers, I think would be doing him injustice. We should pay him as liberally as any of the other officers of the Convention, except, perhaps, our chief secretary. We should, it seems to me, have at least that regard for his office.

Mr. CLARKE, of Johnson,. I hope the gentleman from Warren,]Mr. Todhunter,] will withdraw his amendment. I am satisfied that our chaplain would be well content with the amount proposed by the resolution. It has been customary to pay the chaplain an aggregate sum. And, as it will amount to about the same thing either way, for the purpose of obviating anything like contention upon such a subject as this, I hope the gentleman will withdraw his amendment.

Mr. TODHUNTER. I presume the chaplain would be satisfied with one hundred dollars, or with seventy-five dollars, or with any other sum that we might designate. But would it be proper to designate a sum less than three dollars a day? This chaplain has been in attendance here as regularly as our sergeant-at-arms, doorkeeper or fireman, and they are allowed three dollars a day. And shall we curtail his compensation to a less amount than we give our fireman? I would rather raise his compensation above that amount than place it below it.

It has been intimated by the gentleman from Johnson, [Mr. Clarke,] that preachers are generally poor men. Our chaplain has been in attendance here regularly during our session, and I think he should have at least three dollars a day, whether it amounts to more or less. If it amounts to more than one hundred and twenty-five dollars, let him have it. If, as gentlemen say, it will amount to about that sum, then I can see no harm in the amendment.

Mr. HALL. The only objection I have to saying that we will give our chaplain three dollars a day, is, that I do not like to put upon our records that we hired our minister by the day. I would vote to pay him an aggregate sum of one hundred and fifty dollars cheerfully. I have known him and his family for some time, and I know them to be worthy and estimable people. I would vote to give him one hundred and fifty dollars as cheerfully as I would vote for anything in the course of this session.

Mr. TODHUNTER. I will accept the amendment suggested by the gentleman from Des Moines, [Mr. Hall,] and withdraw the proposition I submitted a few moments since.

The question was upon increasing the compensation of the chaplain to one hundred and fifty dollars; and, being taken, it was agreed to.

The resolution, as amended, was then adopted.

On motion of Mr. SKIFF,

The Convention then took a recess until 2 o'clock p. m.

EVENING SESSION.

The Convention assembled at 2 p. m., and was called to order by the President.

Distribution of the Debates.

Mr. WILSON offered the following resolutions.

"*Resolved*, That W. Blair Lord be employed to superintend the publication of the debates of this Convention, and prepare an index to the same, and that he be allowed the sum of dollars for his services.

"*Resolved*, That each member of this Convention be furnished with copies of the debates, when the same shall have been published, for distribution."

Mr. WILSON. I move to fill the blank in the first resolution with the words "one hundred and twenty," as the amount to be allowed Mr. Lord for superintending the publication and indexing of these debates. I would say that that amount of compensation is lower, I believe, than any I have ever before known for the same time and amount of work; but I think it will prove satisfactory. I hope the Convention will agree to that amendment, and then to the resolution. I think our reporter is the most suitable person we could find to superintend the publication of these debates.

The question being taken upon filling the blank in the first resolution with the words "one hundred and twenty," it was agreed to.

The PRESIDENT stated the next question to be upon filling the blank in the second resolution, in relation to the number of copies of these debates to be furnished to each member of the Convention.

Mr. TODHUNTER moved to fill the blank with the word "fifteen."

Mr. WINCHESTER moved to fill it with the word "five."

Mr. CLARKE, of Johnson. I move to fill it with the word "twenty." And, while I am up, I will say that I understand that the General Assembly took upon themselves the responsibility of voting to each member a copy of these debates.

Mr. WILSON. The Senate voted five copies to each of its members, and the House of Representatives one copy to each of its members.

Mr. CLARKE, of Johnson. By what authority they did that I am unadvised. I apprehend that the circulation of these reports will devolve upon us; and as they are intended for circulation, I want a sufficient number to benefit my constituents. After we have taken enough for that purpose, we should send some to other States, in return for books that we have received from them. I would be in favor of a higher number than twenty to each member, and I will therefore move to fill the blank with the words "twenty-five."

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The question being then taken upon the motion to fill the blank in the second resolution with the word "twenty-five," it was agreed to.

Mr. CLARKE, of Johnson. I do not know but that this resolution may need another amendment. As I understand it, it would appropriate a certain number of copies of these debates to members of the Convention. I move to amend it so that our reporters and secretaries may have one or more copies. It is usual I think, to give them some evidence of their work, as well as to give members evidence of theirs. I therefore move to amend the resolution by adding to it the following:

"And that the reporters, secretaries, and sergeant-at-arms be furnished with five copies each."

The question being taken upon the amendment, it was agreed to.

Mr. TODHUNTER moved that three copies be furnished to the Chaplain.

The question being taken, the motion was agreed to.

The resolutions as amended were adopted.

Mr. CLARKE of Johnson. While we are upon this subject, we may as well provide for the distribution of the rest of the debates, that will be left after the members of the convention have been supplied. If it be the sense of this convention, I will offer a resolution that the remainder of the debates be deposited with the Secretary of State, to be distributed according to law.

Mr. PALMER. Allow me to state that if each member of the legislature is allowed five copies of these debates, and each member of the convention is allowed twenty-five copies—without taking into account those appropriated to the officers of this convention—that will require fourteen hundred and forty of the fifteen hundred copies we have ordered to be printed.

Mr. CLARKE of Johnson. I offer the following resolution:

"*Resolved*, That the remainder of the debates be deposited with the Secretary of State, for circulation as provided by law."

Mr. PALMER. I do not think there will be much of a remainder. Provision is already made by the general assembly and by the convention, for the distribution of fourteen hundred and seventy-three copies. I think we ought to reduce the number a little which has been provided to be furnished to members of the convention, in order that we may retain at least sufficient to enable us to exchange with other states. We ought to send one copy to each state in the Union. There ought to be at least one copy deposited in each county in this state; though the members of the convention might perhaps attend to that. I move to reconsider the vote by which twenty-five copies were appropriated to each member of the convention, in order that that number may be reduced.

The question was stated to be upon the reconsideration of the vote by which the resolutions in relation to the distribution of the debates were adopted.

Mr. CLARKE of Johnson. I hope that motion will not prevail. When I made the motion to appropriate twenty-five copies to each member of this convention, my idea was, in the first place, to supersede the action of the general assembly, by which they appropriated to themselves property which did not then belong to the state—which in fact was not then in existence.

And I designed, secondly, by voting twenty-five copies to each of the members of this convention, to place us in a condition that we might ourselves supply the members of the general assembly, if we should see proper to do so. And I suppose that out of those twenty-five copies each member would feel it his duty to present one copy to the county Judge, and those public officers in the county who would be benefitted by such a work. After taking this number from the amount ordered to be published, there would still be enough left for circulation among the libraries of this state, and the public state libraries of the Union.

We have taken those twenty-five copies to circulate among the people, not to keep for ourselves. I apprehend that every gentleman here will put down first upon his list, the officers of the county who can use the work, and to whom it would be valuable. Now if we go on and deal out these reports county by county, it seems to me we would be doing by detail what the members can do now. After distributing the number provided for by the resolution we have adopted, there will be some four hundred and fifty or five hundred copies to be deposited with the Secretary of State.

This work is more in the character of a legal work, to be used for the construing of the constitution, than for information to mere ministerial officers. I think nothing will be gained by reducing the number to members of the convention. I suppose that every member will remember his county officers, and we can provide that each county, wherein there is a library, shall have one copy. I trust, therefore, the motion to reconsider will not prevail.

Mr. SOLOMON. I have made no calculations in regard to this matter, and cannot tell whether or not I am in favor of the motion to reconsider. But I would throw out one suggestion here. This journal of our debates ought to go into the hands of the public, unquestionably; that should be the first consideration with us. Now the proposed object of the gentleman who moved to give twenty-five copies to each member of this convention, is that they may be distributed among the counties of those members. Now perhaps it has not struck the gentleman who takes that view of the matter, that such a plan will work unequally upon the members. For instance, to give one to each county of my district would require eight of

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my twenty-five copies; while Capt. Price, of Pottawattamie, would be compelled to use up twenty-one copies for that purpose; the gentleman from Des Moines would have to use but one, so that it will operate altogether unequally.

Now I would suggest that the better plan would be to provide that one copy should be placed in the hands of the Secretary of State, to be sent by him in the ordinary way to each county judge, or the proper officer in each county, to be kept there for the use of the public; and to be sent immediately, for we shall need these debates in each county before the people come to vote on the Constitution, at the time the discussion is going on in regard to its adoption. Such a plan would be fair and equitable, and not work unjustly upon any of the members of this Convention.

I think that, in addition to that, some fifty or one hundred copies should be placed in the State Library, to be kept by the State as the property of the State; perhaps twenty-five copies would be enough. And, in addition to that, I think we ought to place in the hands of the Secretary of State, to be sent free of charge, some fifty copies to be distributed among the State libraries of this Union. After doing that we can then count up and see how many we will have, and distribute them among ourselves and our officers, as we may see proper.

I merely make these suggestions as having some bearing upon the proper application of the property for which the people of this State will have to pay.

Mr. GOWER. I have made a calculation as to how I shall distribute my twenty-five copies. I design to give one to each of our Senators and Representatives; two to each editor of a paper in my county; one, each, to the county judge, treasurer, county commissioner and prosecuting attorney, and one to each town clerk in my county, of which there are fourteen. In that way I shall dispose of twenty-two of the twenty-five copies appropriated to me.

Mr. WILSON. I think that the better plan would be to provide for sending one copy of these debates to the county judge of each county. After that is done I think the number twenty-five is not too large for each member. I am satisfied the members of this Convention would distribute these debates with more discretion than they would be distributed if a certain number of copies were forwarded to each county for distribution. Each member of this Convention will place a copy of these debates in the hands of, say twenty-four men, who are thinking, reading men, and who would make a good use of them. Through those men this information will get to other persons, men who are in the habit of talking and giving information to those around them.

I think the number proposed for each member is not too large, and after twenty-five copies to each member is thus furnished, there will be some six hundred copies left to be otherwise disposed of. That certainly will meet the requirements that gentlemen have suggested here.

Mr. WINCHESTER. If the appropriation made by the General Assembly to each of its members is left out of the question, I would vote against the reconsideration. But if it is expected that they shall receive the five copies they voted to themselves, I shall vote for the reconsideration. I am desirous that each county in the State shall be furnished with a copy of these debates by the convention, instead of by the members, and for this reason: There are some members who represent only one-half a county, while other members represent eleven organized counties. I represent eleven counties here, and would be obliged to furnished eleven copies of my quota; while the members from Lee and Des Moines counties would have forty-nine copies for distribution in each of those counties, after supplying the county with a copy.

Mr. TODHUNTER. It seems to me that gentlemen forget one thing in this matter. When they talk about some members here representing one half a county, while others represent eleven counties, I would enquire if there are not more inhabitants in Lee county than in all the eleven represented by the other member. Are there not more in Des Moines county than in the eleven represented by the gentleman from Hardin, [Mr. Winchester]? If there is not, there is but little difference, only about two thousand. Now it is necessary either Lee or Des Moines county should have the same, or nearly the same, number of copies of these debates distributed among its population, as are distributed in the entire district of the gentleman from Hardin, as Lee county has very nearly the same population. There is, therefore, nothing unequal or unjust in this arrangement.

Mr. WINCHESTER. The gentleman is very much mistaken in regard to the population of my district.

Mr. TRAER. I think the gentleman from Warren [Mr. Todhunter,] forgets one thing, when he speaks of Lee county having but two thousand less inhabitants than the entire district of the gentleman from Hardin, [Mr. Winchester.] Lee county, with less inhabitants than his district, has an equivalent of two and a half members here, and will get some sixty copies of these debates, while the gentleman from Hardin will get but twenty-five copies. It appears to me that that makes quite a difference.

It is not the number of inhabitants, but the number of deleggates that makes the difference. My friend from Marion, [Mr. Gibson,] and myself, represent over thirty-one thousand inhabitants, and yet we will get but fifty copies. Lee county, with less than that amount of population, will get some sixty copies. This distribution, therefore, as regards population, is not equal. I think, however, that twenty-five copies to each member are sufficient. I have made no calculation, as has the gentleman from Cedar, [Mr. Gower,] what I shall do with my

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share. I have some friends out of office, as well as those in office, who would like to have copies.

Mr. GILLASPY. I think one thing this convention should do in distributing these books for the information of the people of this State, is to send one copy to each county in the State. This should be done by a vote of the convention, and not left to individual members. If the convention undertake to prescribe the manner in which the members shall distribute their copies of these debates, I think it would be equally proper to prescribe some disposition of the copies of the Code, and the Reports of the Supreme Court. As to that latter matter, I am inclined to think that the convention will find some difficulty, as many of the members have already disposed of their copies.

Now I think the better way would be to let each member distribute his copies of the debates to suit himself. I am satisfied there is not a member upon this floor, who, when he goes home with twenty-five copies of these debates, will not distribute them among men in his neighborhood who will read them, talk about them, and impart the information they obtain from them to others. It would certainly be a hardship, be entirely unjust, to say that the gentleman from Potawattamie, [Mr. Price,] who represents twenty odd counties, the gentleman from Hardin, [Mr. Winchester,] who represents eleven counties, and the gentleman from Mills, [Mr. Solomon,] who represents seven or eight counties, shall furnish each county they represent with a copy of this work. Let the State furnish the counties, and let the members furnish individuals.

Mr. SKIFF. The question of spoils here seems to be agitated with much animation. I know it is a very important subject, and one in which all the members of this body feel a deep interest. I therefore move to lay this subject upon the table for the present, for further consideration. I am not able to decide upon this matter at present, and shall not be until we can have a caucus upon the subject. [Laughter.]

The PRESIDENT. The Chair will inform the gentleman from Sasper, [Mr. Skiff] that his motion to lay upon the table will not be in order until the motion to reconsider has been carried.

Mr. SKIFF. I m not particular about it.

Mr. HALL. I am satisfied myse lf that giving twenty-five copies to each member of this convention is not the proper way to dispose of those books. The objection to that plan is well founded, from the fact that Lee county, with a small territory, would get some fifty copes, while fifteen or twenty counties out west can get but twenty-five copies. I think we should so endeavor to distribute these debates as to have a reasonable number of copies in each county; for although some of those counties are sparely settled at present,, they will be more densely populated bye and bye. We ought also to send two copies to each state and territory library, one each to the congressional library and the library of the Smithsonian Institute, and a copy to each state historical society; for those institutions of such vast general interest that they should be supplied with a copy of this work. I think that at least five copies should be sent to each county. Many of them already have libraries and institutions of learning, which will desire this work and will be able to obtain them from the counties if we send them there. I have no doubt that members will distribute them properly, if they are furnished to them. But these resolutions do not propose an equitable mode of distributing them to members. I therefore hope the vote by which this was adopted will be reconsidered, that we may have an opportunity to make some other disposition of the matter.

Mr. GIB ON. It seems to me that we are disposing of these debates a little too fast, according to an estimate which I have made, I find that to give twenty-five copies to each mem ber of the convention will require nine hundred copies. Give each member of the legislature five copies, which is the number they have appropriated to themselves, and that will take five hundred and forty copies more,—making altogether one thousand four hundred and forty-two copies. Then the secretaries, reporters and sergeant-at-arms five copies each will require thirty copies, and three copies to the chaplain. As I understand only fifeen hundred copies have been ordered to be printed; according to the above estimate only some twenty-seven copies will be left.

Now if we adopt this plan, and vote this number of copies to ourselves and others, the members of the legislature of course will want their copies—we must increase the number to be published. We should consider the matter a little and see whether it would be better to increase the number of copies to be published, or curtail the number of copies to be furnished to each member. If we are not careful we will run short of copies to accomplish the purposes for which the work was designed. There will not be enough copies left to furnish one to each county of the state and each state library.

Mr. SOLOMON. It is evident to my mind that a little calculation should be made in regard to the distribution of these books. And I think it would be better to appoint a committee to examine and recommend the proper mode of distributiug these volumes. The committee would be well able to do this now, after the suggestions that have been made here by different members, though no one seems to have prepared anything of the kind now.

I would say in reply to the gentleman from Warren, [Mr. Todhunter] that I do not think it would be a fair distribution of of these books, to distribute them according to the present population of the several counties in this state. I think every county ought to have at least one or two, if not more. If there are a great many inhabitants in Lee county, this work should be placed within the reach of all by being deposi-

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ted at the county seat. If they are distributed among and according to the present population of the State, there will be, in a few years, in these new counties, when they come to be settled, a large population which was not taken into the calculation at all.

The very time when a proposition is submitted to amend this constitution, which may be years hence, will be the time when these books will be most valuable to the people, and I think that it is highly important that every county, whether organized or not, every portion of the state destined to be a county, should have its proportion of these works. And if it is necessary in order to make that provision, I am willing to vote for this reconsideration. I do not exactly like the idea of each of us taking twenty-five copies of this work. The people will look upon it as an appropriation for our own uses, and indeed as it is, we are not, and cannot be, compelled by any ruling of this body, or any other to distribute these books among the people if we take them. I know it will be with the understanding that we will distribute them over the state at large; but it is a mere matter of understanding, there is no compulsion about it. Now I want to relieve myself from this by providing for the distribution of these books at once by this convention.

Mr. CLARK, of Alamakee. I am in favor of making some provision here so as to have one copy of these debates deposited with some proper person in each county for the use of the people of that county. But I am opposed to this of giving each member of this convention an equal number of copies for distribution, for I believe that would be unfair and unjust.

I find that Lee and Van Buren counties are represented here by four members, Messrs. Ayres, Day, Johnston and Patterson and they have a population of forty-three thousand and ninetyfour. If we appropriate twenty-five copies to each member, those counties would have one hundred copies, or one copy to every four hundred and thirty persons. Now I represent a population of twenty-three thousand and fifty-two and would have but twenty-five copies, or about one copy to every thousand persons. The constituents of these gentlemen, would get, in proportion to their number, more than double the copies of these debates that my constituents would get.

Now I have some eleven counties in my district, and I suppose they will expect to have the same number of these reports, in proportion to their population, that other counties in other districts of the State would have. I am in favor, however, when we come to decide upon the number of copies each delegate shall have, of allowing them to distribute them among their constitutents as they please, as I believe they would be better qualified to do it than any other persons can be. We will thus be more sure to accomplish the object we had in view in printing these debates, and to do so within a shorter period of time, than we would to allow them to be distributed in any other way.

Mr. CLARKE, of Henry. The only question before us, I suppose, is in regard to the reconsideration. Now the great difficulty which we find here, results from the cutting down the number of copies of these debates, that we have ordered to be printed, from three thousand to one thousand five hundred. We now find ourselves in the very same difficulty that many of us anticipated when the number was reduced. We have adopted a resolution, appropriating twenty-five copies to each of the members of this convention. Now we must repudiate the action of the general assembly in appropriating copies to each of its members, or we must reconsider our action here, for we cannot have twenty-five copies apiece, and still let the members of our legislature have the number of copies they have voted themselves.

Mr. PALMER. I am informed by the Secretary of State that we have been laboring under a mistake in regard to the action of the House of Representatives upon this matter. The Senate voted themselves five copies apiece, but the House of Representatives did not provide that number for its members.

Mr. CLARKE, of Henry. I supposed that these books of debates, after they are published, would be deposited here with the State under the control of a proper officer of the State, to be distributed in some equitable manner. Now I do not think we can distribute them equitably here, either by distributing them according to districts or according to counties. I think we should content ourselves with taking five copies each, as our Senators did, and let the matter go at that.

Mr. MARVIN. I am in favor of the proposition to allow the State to distribute among the counties from two to five copies each of this work. And I would say to members that I intend to move at the proper time to increase our supply of this work. I understand that we can increase it to two thousand copies without much additional expense, as the printers have struck off enough additional copies to amount to that number, and we can have them as well as anybody else, and they will be put to a better use if we take them than they would likely to be otherwise.

I think that members from our new counties, as they are mostly young men with considerable ambition, and have made considerable many speeches, and will desire political promotion hereafter, should be allowed to take these books for distribution among their constituents. I would not deprive them of that opportunity, and I do not know that they could be put to any better use, than they will be if placed in their hands. It is but human nature that they should desire to do so. They are not different in that from other people. And if we place these books in their hands they will distribute them better than some dull county judge, who will have his

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friends, and the first who ask will get them, and that will be the end of the matter.

Mr. CLARKE, of Johnson. I am advised by one of the clerks of the late House of Representatives, that during the last night of the session the House did appropriate a certain number of copies of this work to each of its members.

Mr. PALMER. But one copy each.

The question was upon the motion to reconsider the vote by which the resolutions in relation to the distribution of the debates of the convention were adopted.

The question being taken the motion to reconsider was agreed to.

The question recurred upon the adoption of the resolution as amended.

Mr. WINCHESTER moved that the resolution be referred to a select committee of three, who should recommend the manner in which these reports should be distributed.

The question being taken, the motion was agreed to.

Mr. PALMER moved to further instruct the committee to inquire into the expediency of having printed a greater number than one thousand five hundred of these reports printed.

The question being taken, the motion was agreed to.

Committee of the Whole.

On motion of Mr. HALL,

The convention resumed the consideration, in committee of the whole, (Mr. Parvin in the chair,) of the report of the committee on education and school lands.

The CHAIRMAN stated the question to be upon striking out the following from the report of the majority of the committee:

Section 1. The Educational interests of the State, to include Common Schools and other Educational Institutions, shall be under the management and control of a Board of Education, which shall consist of sixteen members.

Sec. 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been two years a citizen of the State.

Sec. 3. The General Assembly shall district the State into sixteen Educational Districts, and one member of said Educational Board shall be chosen by the qualified electors of each district, and shall hold their offices for the term of four years, and after the first election under this constitution, the Board shall be divided by lot into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the Board shall be chosen every two years thereafter.

Sec. 4. The first session of the Board of Education shall be held at the seat of Government, after which said Board may fix the time and place of meeting.

Sec. 5. The session of said Board shall be limited to twenty days, and but one session shall be held in one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a special session.

Sec. 6. The Board of Education shall organize by appointing from their body a presiding officer, and the appointment of a Secretary and other inferior officers usual in Legislative Assemblies. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the General Assembly.

Sec. 7. All rules and regulations made by said Board, shall be published and distributed to the several Counties, Townships, and such School Districts as may be provided for by said Board, and when so passed, published and distributed, they shall have the force and effect of law.

Sec. 8. Said Board shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools and other institutions of learning that are instituted to receive aid from the School or University funds of the State.

Sec. 9. Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules, and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court.

Sec. 10. The Board of Education shall provide a system of Common Schools, by which a School shall be organized and kept in each district at least three months in each year. Districts failing to organize and keep up a School, may be deprived of their portion of the School Fund.

Sec. 11. The Board of Education shall establish one University, which shall be located at some central point in the State, *Provided*, that until such time as such location may be made, and suitable buildings erected, said University shall continue as at present located.

And to insert in lieu thereof the following:

"The General Assembly shall provide for the election or appointment of a Board of Education, to be composed of twelve persons, who shall be the trustees of the University, and shall have the general charge and control of education in the State. They shall have power to appoint a Secretary of the Board, who shall be their executive agent, and perform such duties as may be imposed upon him by the Board of Education or the laws of the State."

Mr. SOLOMON called for a division of the question, which was accordingly ordered.

The question was upon the motion to strike out the first eleven sections of the majority report.

Mr JOHNSTON. I submitted the motion to strike out these sections and insert in lieu there-

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of the first section of the minority report. I stated at the time, that I submitted this motion for the purpose of testing the sense of the committee in regard to these two reports.

I desire to say, before I am called upon to vote upon this question, that when these two reports—recommending the same system, the one being more in detail than the other—were first presented to the Convention, I was decidedly in favor of the minority report. But I confess that my opinions have been very considerably shaken by the discussion of this morning. I did not hear the discussion of yesterday afternoon, but the speeches made this morning have led me to believe that there is something more in the report of the majority than I had at first supposed.

The committee will observe that the principle contained in these two reports is the same. The object, it appears, is, to get rid of the office of superintendent of public instruction, as the controlling agent of the educational interest of the school fund of the State. So far, they agree. The difference consists chiefly in the fact that the report of the majority goes into details, making the members of the board elective by the people, rendering them constitutional officers, provides for their meetings, &c. I, myself, am opposed to that portion of the section I have offered as a substitute for these eleven sections, which provides for the appointment of this board of education. I am in favor of the election of the board by the people by districts.

The principal objection which I have had to the report of the majority, has been in regard to the details. But after the discussion which has taken place this morning, I am willing to endeavor to have this changed so as, if possible, to meet my views, and I do not know but what that may be done. I shall, therefore, when the question is taken, vote against the motion to strike out. I make this statement, being the author of this motion.

Mr. SOLOMON. I would suggest to the gentleman from Lee, [Mr. Johnston,] that he can withdraw his motion to strike out if he has become satisfied that it is not necessary.

Mr. JOHNSTON. My object in submitting that motion was to have a test vote upon these two reports, and I desire, therefore, to have my motion put to the vote.

Mr. SOLOMON. I would ask that the majority report be taken up and considered, section by section, separately.

The CHAIRMAN. That will be done if the motion to strike out is not agreed to.

Mr. SOLOMON. I have called for a division of the motion to strike out and insert. I suppose I can call for a further division upon striking out each section separately.

The CHAIRMAN. The gentleman can accomplish his object equally well the other way.

The question being then taken upon the motion to strike out the first eleven sections of the majority report, it was rejected.

The CHAIRMAN stated that the report would now be read and considered by sections.

Number of Board of Education.

The first section was then read as follows:

"The educational interests of the State to include common schools and other educational institutions, shall be under the management and control of a board of education, which shall consist of sixteen members."

Mr. SKIFF. Upon consultation with some of the members of the committee, it has been suggested that perhaps it would be well to have the same number of educational districts as of judicial districts in the State. The committee on the judiciary, as I understand, have reported in favor of having but eleven judicial districts. I therefore move to strike out the word "sixteen," and insert the word "eleven;" and insert after the word "members," the words, "to be increased from time to time, as the number of judicial districts are increased."

Mr. HALL. I do not consider that amendment as of any considerable impor ance one way or the other. The difficulty is this: the manner in which we will be obliged to lay out our judicial districts must necessarily lead to there being a vast disparity of population between the different districts. Take, for instance, the first judicial district. That, I suppose, will be the most populous district in the State. It will contain from sixty to seventy-five thousand inhabitants. But in the western part of the State there will not be half that number of inhabitants in a judicial district. Yet, as this board will be clothed with power over but a single subject, I should not anticipate any serious evil would flow from such an arrangement. But I would prefer, for the sake of the harmonious working of the system, to apportion these districts according to the inhabitants of the State, so that the several districts will have about an equal number of inhabitants, and be represented in this board each by one member.

That is the only objection I have to the proposed amendment. The reduction of the number is no great matter, although I do not believe that the number "sixteen" is too large. I would go further than this report goes, if I had my way about it. I would make each member of this board the superintendent of the schools in his district. I would endeavor to make the machinery of this system more permanent and more efficient.

But I wish it to be understood that I am not going to stand upon any matters of the character of this amendment, though I think we should have their representation in this board upon an actual population basis.

Mr. SOLOMON. I would suggest to the mover of this amendment, that it would serve the same purpose, if he could make it a little shorter. I

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would suggest to him that he make it read as follows:

"The educational interests of the State to include common schools, and other educational institutions shall be under the management and control of a Board of Education, which shall consist of one member from each judicial district."

That will fix the division at once, without any further trouble.

Mr. SKIFF. I will withdraw my amendment.

Mr. SOLOMON. I move then as an amendment to strike out the word "sixteen," and insert in lieu thereof the words "consist of one member for each judicial district."

The question was taken, and the amendment was agreed to.

No further amendments being offered to the first section—

Eligibility.

Section two was then read as follows:

"No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been two years a citizen of the State."

Mr. SOLOMON. I move to strike out the word "twenty-five," and insert in lieu thereof "twenty-one."

The question was taken, and the amendment was not agreed to.

Mr. SKIFF. I would suggest to the committee if it would not be better to make a person eligible to a seat in this board, by a residence of less than two years in the State. I would suggest that a year's residence should be sufficient for this purpose. I would move, therefore, to strike out "two," and insert "one" in its place. New districts are continually being formed in this State, and new comers are settling among us, among whom there may be persons more competent to take charge of educational matters than those who have resided here a longer time. It is generally understood that, by the proposition of the gentleman from Des Moines, [Mr. Hall,] school teachers, and men who have spent their lives in the cause of education, will be called to fill places in the Board of Education; and it may be that men of his class will come here from other States, whom it might be desirable to elect as members of this board, but who would be disqualified for the office on account of not having been in the State two years. I think, therefore, we better require, that a person to be eligible to a place in this Board, shall have a residence here of one year instead of two years.

The question was then taken, and the amendment was agreed to.

No other amendments being offered to the second section—

Manner of Election.

Section three was then read as follows:

"The General Assembly shall district the State into sixteen Educational Districts, and one member of said Educational Board shall be chosen by the qualified electors of each district, and shall hold their offices for the term of four years, and after the first election under this Constitution, the Board shall be divided by lot into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the Board shall be chosen every two years thereafter."

Mr. SOLOMON. This section is unnecessary after the amendment we have made to section one. I move, therefore, to strike it out.

Mr. HALL. I think the section can be amended by slight alterations, so as to remove the objection, which the gentleman from Mills [Mr. Solomon,] may have to it. I would move to strike out all in the first line to the word "one," and between the words "lot" and "into," insert, "as near as practicable;" so that the section would then read as follows:

"One member of said Educational Board shall be chosen by the qualified electors of each district, and shall hold his office for the term of four years, and after the first election under this Constitution, the Board shall be divided by lot, as near as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the Board shall be chosen every two years thereafter."

The question was then taken, and the amendment was agreed to.

There being no other amendment offered to the third section—

First Session of the Board.

Section four was then read as follows:

"The first Session of the Board of Education shall be held at the seat of Government, after which, said Board may fix the time and place of meeting."

No amendments being offered to this section—

Length and Number of Sessions.

Section five was then read as follows:

"The Session of said Board shall be limited to twenty days, and but one Session shall be held in one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a Special Session."

Mr. MARVIN. I propose the following amendment to this section, to come in at the end:

"In addition to the above services, each mem-

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ber of the Board shall perform such other services as the Legislature may require."

My object in offering this amendment is, that this Board may have something to do in their own districts, that they may attend teacher's institutes, and attend to such other educational matters as the Legislature may deem requisite. Under the provision as it stands now, their duties are specified, and they are limited to a session of twenty days in a year, unless the Governor should order a new session. I want to have them go into the districts, that they may bring to their sessions all the information requisite to the performance of their duties, which they may have acquired while traveling in the districts, and while engaged in attendance upon teacher's institutes, &c. That is the object I have in view in offering the amendment; though I hardly know whether it will accomplish what I desire.

Mr. HALL. I will suggest an amendment, which I think will meet the views of the gentleman from Jones, [Mr. Marvin], and that is, "the members of said Board shall perform such duties as the Superintendent of Common Schools was required to perform."

Mr. JOHNSTON. One of the most powerful arguments urged by the gentleman from Des Moines, [Mr. Hall], here in favor of his proposition was, that a system was to be established entirely distinct from the Legislature, and beyond its control. If he now places it in the power of the Legislature, he is falling back upon the plan recommended by the gentleman from Scott, [Mr. Ells], in his report. I would just say in answer to the gentleman from Jones, [Mr. Marvin], that if there are any duties which are necessary for this Board to perform, they can control this matter themselves. They have the power of legislation in this respect.

Mr. MARVIN. Not with regard to their own duties.

Mr. JOHNSTON. They have the right to legislate in regard to all school matters.

Mr. HALL. As I stated at the outset, it is not my desire, nor is it my object, to make the Board of Education a co-equal branch with the General Assembly. I am not prepared to take this step, as I have said in my arguments upon two occasions already. If this Board should find it to be their duty to provide for county and district superintendents, and should pass a law by which it would be made their individual duty to make such a provision, it would be obligatory upon them, until it was changed by the General Assembly. I do not design to leave this matter so that the General Assembly cannot, if they see proper, control or repeal the rules and regulations made by this Board. I do not believe there is any danger while they are in the path of duty, and while they are pursuing an honest course, of any interference on the part of the General Assembly, unless it is absolutely essential.

Now, the legislature may find it necessary, at some future time, to make each member of this Board a superintendent in his particular district; or the Board may think it proper to make such a provision. Either body could provide for such a law, if it were deemed necessary.

I have prepared an amendment, which I think will meet the views of the gentleman from Jones, [Mr. Marvin], and it is this:

"Each member of said Board shall perform such duties in the district in which he is elected as superintendent of schools, as may be provided by law."

Mr. MARVIN. I will withdraw my amendment.

The question was then taken upon the amendment offered by Mr. Hall, and it was agreed to.

Mr. TODHUNTER. I move to strike out the following in this section, "the session of said Board shall be limited to twenty days," so as to do away with all limitation of time in the holding of its sessions.

Mr. SKIFF. I hope that this amendment will not prevail. I think that the sessions of this body should be limited within a specified period of time. By the creation of this Board, we are creating a new branch of the government, which is to hold sessions annually. And I think it, therefore, a wise provision to limit them to some definite period of time, within which they shall transact their business.

Mr. TODHUNTER. I am opposed entirely to the system of restricting deliberative bodies of any kind or character, and I believe they should have free scope for the performance of their duties. If we grant this Board the privilege of meeting here for the purpose of making rules and regulations with regard to schools, they should have ample time allowed them for the performance of their duties. There should be, in my opinion, no definite time fixed for their sittings, but they should have as long time as they think proper within which to mature their plans and regulations, and make them as perfect as possible. If they do their business in less than twenty days, and are able to finish it in ten, why they can then adjourn and go home. The length of their sessions should be left entirely discretionary with the Board itself. It is not at all likely that they will abuse this power. If they convene here for making rules and regulations, they will no doubt act judiciously. I am in favor, therefore, of striking out that portion of the section which limits them to a session of twenty days.

The question was then taken, and the amendment was not agreed to.

No other amendment being offered to the fifth section—

Organization of the Board.

Section six was then read as follows:

"The Board of Education shall organize by appointing from their body a presiding officer,

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and the appointment of a Secretary, and other inferior officers usual in legislative assemblies. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the General Assembly."

Mr. JOHNSTON. I move to strike out, in the second line, the words, "usual in legislative assemblies;" also, to insert in the place of "inferior," the word "necessary," so that the section would read as follows:

"The Board of Education shall organize by appointing from their body a presiding officer, and the appointment of a Secretary and other necessary officers. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the General Assembly."

The question was taken and the amendment was agreed to.

No other amendments being offered to this section—

Publication and Distribution of Regulations of the Board.

Section seven was read as follows:

"All rules and regulations made by said Board shall be published and distributed to the several counties, townships, and such school districts as may be provided for by said Board, and when so passed, published and distributed, they shall have the force and effect of law."

No amendments being offered to this section—

Power of the Board.

Section eight was then read as follows:

"Said Board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university funds of the State."

No amendments being offered to this section—

School Chancellor.

Section nine was then read as follows:

"Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court."

Mr. SKIFF. I should like to hear an explanation of this section.

Mr. HALL. The object of having such an officer as is provided in this section, is to have some one to decide cases that will necessarily arise under the operations of the school system. All the States, I believe, have some officer of this kind. I have made provision in this section, as the gentleman will see by referring to it, that an appeal may be taken to the Supreme Court from the decisions of this officer. The power given under the present system to the county fund Commissioners, and the Superintendent of Public Instruction, over these matters, has nothing of a judicial character. It strikes me that if you would combine a little judicial power with the other powers which are given to the Chancellor, over questions growing out of the educational system of this State, you would harmonize a great many things, which are now left in an unsettled state. There are many questions arising in the organization of districts, the mode of keeping up schools, the building of school-houses, and a great many other things, which the Chancellor could decide. "Chancellor" is the best name we can give such an officer, because he would partially exercise a species of prerogative power, and to a little extent judicial power. I am not prepared strenuously to urge the adoption of this section upon the convention, neither am I willing to relinquish it.

There being no amendments offered to this section—

Section ten was then read as follows:

Common Schools.

"The Board of Education shall provide a system of common schools, by which a school shall be organized and kept in each district at least three months in each year. Districts failing to organize and keep up a school, may be deprived of their portion of the school fund."

Mr. GIBSON. I move to strike out the word "three" and insert "six" in its place, so that a school shall be organized and kept in each district at least six months in every year.

The question was taken and the amendment was agreed to.

No further amendments being offered to this section—

University.

Section eleven was then read as follows:

"The Board of Education shall establish one University, which shall be located at some central point in the State, *provided*, that until such time as such location may be made, and suitable buildings erected, said University shall continue as at present located."

Mr. GOWER. I move to amend this section by striking out the words "some central point in the State," and inserting in lieu thereof, "Iowa City," so that the section would then read—

"The Board of Education shall establish one University, which shall be located at Iowa City,

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Provided, that until such time as such location may be made and suitable buildings erected, said University shall continue as at present located."

Mr. SOLOMON. I really deprecate the introduction of this amendment at this time. We are at work here trying to form a system upon great organic principles, which shall establish the foundation of a system for the education of the youth of the State for years to come. I regret that this amendment is offered at this time, as it must introduce questions of a local character which will distract us in our deliberations from carrying out and promoting the great features embodied in this article. I can see no injustice in the section as it now reads. It proposes to have nothing at all to do with fixing the locality of the University of the State, but leaves the University where it is now located, until it shall be removed by the proper authorities to some other place, if such a thing shall ever be done. I hope, for this reason, that the amendment will not prevail, but that the section may be allowed to stand as reported by the committee.

Mr. GIBSON. I think that the main features of this section ought not to be adopted at this time, and in order to accomplish this object, I move to strike the eleventh section out entirely.

The CHAIRMAN. There is a motion now pending to amend the section, and the amendment of the the gentleman would not therefore be in order at this time.

Mr. GIBSON. I think if this question with regard to the State University has to come up, we had better dispose of it at some other point. Here is already a report from the Committee on Miscellaneous Subjects, which proposes to establish the State University permanently at Iowa City. It is a question that perhaps may lead to some discussion. As the question will come up in another place, I would like to have this section stricken out.

Mr. HALL. I will ask the gentleman from Cedar [Mr. Gower] to withdraw the amendment he has offered, and let the section be stricken out.

Mr. GOWER. I will withdraw it.

Mr. GIBSON. I now move to strike out the eleventh section.

The question was taken and the motion was agreed to.

University Fund.

The twelfth section was then read as follows:

"The University lands, and the proceeds thereof, and all the moneys belonging to said fund shall be a permanent fund for the sole use of said University. The interest arising from the same shall be annually appropriated to the support and benefit of said University."

Mr. PALMER. I move to strike out of the second line the word "said," and insert in lieu thereof the words "the state."

The question was taken and the amendment was agreed to.

There being no further amendments offered to this section:

Common School Fund.

Section thirteen was then read as follows:

"The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvements. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interests of which, together with all rents of the unsold lands and such other means as the General Assemby may provide, shall be inviolably appropriated to the support of common schools throughout the State."

There being no amendments offered to this section—

Section fourteen was then read as follows:

"The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said county, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall from time to time provide."

There being no amendments offered to this section—

University Fund.

Section fifteen was then read as follows:

"The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of the University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to

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provide effectual means for the improvement and permanent security of the funds of said University."

There being no amendments offered to this section—

Agents of the School Funds.

Section sixteen was then read as follows:

"The financial agents of school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes."

There being no amendments offered to this section—

Distribution of School Funds.

Section seventeen was read as follows:

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years."

Mr. PALMER. I move to add at the end of the section the words "in such manner as may be provided by the General Assembly;" so that the section would read—

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years, in such manner as may be provided by the General Assembly."

I think there should be some little limitation to distinguish between the powers of the Legislature and the powers of this Board over the fund, and, therefore, I offer this amendment to provide for the distribution of this fund in such manner as the Legislature may direct.

The question was taken, and the amendment was agreed to.

No further amendments being offered to this section—

Compensation of Members of the Board.

Section eighteen was then read as follows:

"The Board of Education shall each receive the same per diem and mileage as the compensation as members of the General Assembly."

Mr. PALMER. I move to strike out the word "as," and insert "of the," in lieu thereof.

The question was taken, and the amendment was agreed to.

No other amendments being offered to this section—

Quorum of the Board.

Section nineteen was read as follows:

"A majority of the Board of Education shall constitute a quorum for the transaction of business; Provided, no rule, or regulation, or law, for the regulation and government of the School System, shall pass without the sanction of the majority of all the members of the Board, which shall be expressed by the yeas and nays, on the final passage."

No amendment was offered to this section.

The CHAIRMAN stated that they had now gone through with the report by sections.

Assumption by State of School Fund.

Mr. GOWER. I offer the following additional section:

"All moneys that have accrued, or may accrue, to the school fund of this State, under the second section of the ninth article of our constitution on "Education and School Lands," shall be received by the Treasurer of State; and all holders thereof are required to pay to the Treasurer, as fast as existing contracts mature."

"On the first Monday in February, of each year, the Auditor and Treasurer of State shall distribute to each county their proportion of the fund, and the County Treasurers are authorized to draw the same, to be drawn by the districts or teachers, as provided by the General Assembly—all to be done by ex-officio salaried officers, and without charge to the said fund."

The section which I offer here makes provision for placing the entire school fund in the hands of the Treasurer. It is now scattered all over the State, and a great portion of it is liable to be lost. I believe it to be a safer plan to place it in the Treasury, than to have it dispersed all over the State. The only officers, whose duty would be increased by the section I propose, would be the Auditor and Treasurer, who would be required to distribute to the counties their respective proportions of this fund.

Mr. HALL. The gentleman from Lee, [Mr. Johnston,] introduced a proposition, involving substantially the same proposition as that now presented by the gentleman from Cedar, [Mr. Gower.] There are quite a number of members of the convention, who are dissatisfied with the manner in which the school funds are now managed, and are disposed to call them in and invest them in some more certain and reliable way than that in which they are invested at present. I confess that I have thought of no well digested plan by which to effect this object. I think that we can accomplish the purpose we all have in view better by referring this subject to a select committee, who shall take it into consideration and report whether this fund shall remain in its present condition, or whether a constitutional provision shall be made by which it shall be otherwise invested. I will go as far as any gentleman to make this fund secure and to make the interest certain. We want to place it where it cannot be lost. I doubt the propriety, just at

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this time, of adopting such a proposition as that presented by the gentleman from Cedar.

Mr. GOWER. I will withdraw it.

Mr. SKIFF. I move that the committee rise, and report this article as amended back to the convention, and ask to be discharged from its further consideration.

The question was taken, and the motion was agreed to.

The PRESIDENT having resumed the chair,

The CHAIRMAN reported that the committee of the whole, to whom had been referred the report of the committee on education and school lands, had instructed him to report the same back with sundry amendments to the convention, and ask leave to be discharged from its further consideration.

The report of the committee of the wh le was received, and leave granted accordingly.

On motion of Mr. WILSON,

The report as amended was laid on the table and made the special order for to-morrow at 9 o'clock, A. M.

Incorporations.

On motion of Mr. WINCHESTER,

The report of the select committee on corporations was then taken up.

The PRESIDENT stated that the report would be read through by sections.

The first section was then read as follows:

"No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided."

No amendments being offered to this section—

Section two was then read as follows:

"The property of all corporations for pecuniary profit, now existing, or hereafter created, shall forever be subject to taxation, the same as property of individuals."

No amendments being offered to this section—

Section three was then read as follows:

"The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State."

No amendments being offered to this section—

Section four was then read as follows:

"No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly."

No amendments being offered to this section—

Banking Laws.

Section five was then read as follows:

"No act of the General Assembly, authorizing corporations or associations with banking powers, nor shall amendments thereto, take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election."

Mr. CLARKE, of Henry. I move to amend by inserting in the second line after the word "thereto," the following "or acts of repeal thereof." I would say that this is the form in which this section passed the convention. It is allowing a law to go out of the same door through which it came in. We now require that a law upon this subject after it has been passed shall go to the people to be voted upon before it shall take effect; and we should also require, if the legislature wish to repeal it, that the act to repeal shall go to the people to be passed upon in like manner.

There were very lengthy arguments made by gentlemen here, showing the necessity of having such a restraint as this, and showing the insecurity that would result to stockholders and others in embarking in corporations, if we allowed the legislature to repeal the laws creating these corporations, and give them the constitutional right to do so, without some check of this kind.

Mr. CLARK, of Alamakee. It seems to me that there is no necessity for adopting the amendment proposed by the gentleman from Henry, [Mr. Clark.] There is a provision in this report, which requires a two-thirds vote of the legislature to repeal any law granting these privileges. I think that this is all the check it is necessary to throw around this subject.

Mr. PARVIN. I see many alterations in this report from that which passed the convention. In that report we had some restrictions thrown around the legislature in reference to banking. The committee have seen proper to make a report here without providing for any such restriction. If the convention are willing to authorize the legislature to create banking corporations without any restrictions as to the amount to be issued and without any individual liabilities whatever, I do not think it is necessary to restrict the legislature in reference to repealing those acts. I hope the convention will adhere to the restrictions they placed upon the legislature in regard to banking institutions, when the subject was before the convention a few days since.

Mr. CLARKE, of Johnson. I am opposed to the motion of the gentleman from Henry, [Mr. Clarke.] It is true that this report, as made by the select committee, does not entirely meet my views; but I have been here long enough to know that the individual wishes and views of every member of this convention cannot be satisfied. Although there are some things in this report that I should not individually put in, if I

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were alone to be consulted, yet I am willing to take it as a compromise. We have spent some time in the consideration of this question of incorporations; and we have put together an article here which to my mind would have prevented the very object and purpose of the people in calling this convention, This report in some degree relieves that article of its objectionable features, and I am willing to take it as a compromise. I think it is the best we can do in this convention. Under it the power is left to the people to create banking institutions through the general assembly, and have no doubt the general assembly will provide all the restrictions that have been attempted to be put into the constitution. I doubt not that the matter may be safely left in the hands of the legislature. I am willing therefore to accept the report as a compromise, not to meet my own individual opinions upon the subject. Entertaining these views I trust the majority of the convention will coincide with me, and that we shall put an end to one vexed question by agreeing to the report of the special committtee.

Mr. HARRIS. What is the precise position of this matter? I wish to return to what was done in the convention before the report was sent to this committee. I am in favor of letting the matter stand as it was, and I wish to know what is the proper parliamentary course by which to reach that object.

The PRESIDENT. This report comes back as the action of the select committee. before the question is taken upon adopting the report, it is open to amendment. When amended, the question will be then upon concurring with the report of the committee, that is, concurring in the amendment of the select committee to the article referred to them.

Mr. HARRIS. Then if we do not concur, I suppose it falls back where it was before it was referred.

The PRESIDENT. Precisely.

Mr. HARRIS. Then I hope the convention will refuse to concur.

Mr. PALMER. I desire simply to say that I prefer the action of this convention heretofore upon this question, and shall therefore vote against the amendment recommended by the select committee.

Mr. CLARKE, of Henry. I will withdraw my proposition to amend. I should prefer to have the question come up directly, as suggested by the gentleman from Appanoose, [Mr. Harris,] upon the report of the select committee. I should prefer that the question should be taken directly upon concurring with this report, so that if we do not concur we can go back to our work as we left it the other day. I ask leave to withdraw my amendment.

Leave was granted.

Mr. HALL. The question is now upon concurring with the report. As a member of the committee who recommended this report, perhaps it would be proper for me to say something in its defence. When the article was referred to the special committee it was encumbered with some ten or twelve sections in addition to what it now has, and which gentlemen called restrictions. They were all, as I think, properly the subjects of legislative action. We were attempting in a constitution to do the work properly belonging to a legislature. We seemed to have started out with the idea that we were sent here to create a banking system and to provide all the minutiæ necessary for its complete and perfect operation; and thus we had introduced into the constitution a large amount of matter which properly pertains to legislation. We are endeavoring in fact to limit and tie down this banking system to the views of this convention, so that there can be no change made by the legislature. From the very start I have been opposed to this; and I have heard no argument in favor of it, except an argument which appears to me to slander the legislature which shall come after us, an argument which impeaches the integrity of the very institutions which we ourselves in another article of this same constitution are creating. Further than that, the restrictions went so far as to take this from the power of the people; because we provide that any law to be passed upon this subject, shall first be acted upon and passed by the legislature of the State, before it can be submitted to the people. It must first pass into a law by the legislature, and then before it can have any validity, it must be submitted to a vote of the people of the State, and a majority of the votes of the people must concur in it. With these checks and these guards thrown around it, to ward off any possible harm that could otherwise grow out of the experiment of banking, notwithstanding all my anti-bank notions, I have no earthly objections to the plan. Indeed I feel that it is for our interest. I think it is the duty of this convention to leave these matters, through the legislature, to the people. If we should make a mis-step here; if we should throw around the system difficulties not to be overcome, giving the people not that which they ask, but such a form as will be totally worthless to them, we should not be performing our duty to the people who sent us here. What greater checks, I should like to know, do you want, than the checks which this article throws around the banking system? Is not the legislature one check? Is not the vote of the people another check? Do we not provide for this system all the protection which we provide for the constitution itself? And will not that law, when agreed to by the people, have in addition to all the sanction of a law passed by the legislature upon the subject of banking, all the sanction and sacredness of the constitution itself? Do gentlemen doubt the right? Are they fearful? Is it a matter that that must be guarded against by an instrument, which, when it has been adopted by a majority of the people, has no greater validity and is sanctioned by no higher power? It does appear to me that we are too

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timid upon this subject. We have taken an improper course, and may defeat the very object we have in view. Gentlemen may say that their constituents think it is all right, and look for and expect these things; but I tell gentlemen that their constituents will understand this as well as they do. They are not such fools as to be caught in such traps. They know that the legislature, selected by their own votes, is safe enough. The man who will not believe that, will be rare to be found. It is check enough, guard enough, protection enough. For my part I am disposed to stand by the report, believing that it contains every provision which is necessary or essential. In that we have the legislature and the people to put the checks and the guards in a proper form, and to modify them if not right. That is the proper way for us to leave it. We should give them that privilege. Let us not fasten it here, so that if the checks should prove imperfect, should prove too stringent or not stringent enough, it cannot be remedied; but let us leave it to the legislature and the people to change it. If the legislature should pass a law, and it should appear that there were not restrictions enough, they could add to them. If it should appear that there were too many, they could remedy that. Let us give them a little liberty. Let us not put the banking system into an iron cage, and confine it under a discipline it cannot survive. If gentlemen will look at the principle, I think they will be ready to permit this to take a form in which we can vote for it.

Security of Banks.

Mr. WILSON. I wish to move to add an additional section to the the report of the committee to come in as section seven:

"If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of the State, of all bills, or paper credit designed to circulate as money, and require security to the the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest-paying stocks of the States in good credit and standing, to be rated at ten per cent, below their average value in the city of New York, for the thirty days next preceding ther deposit; and in case of the depreciation of any portion of said stocks to the amount of ten per cent. upon the dollar, the bank or banks so depositing shall make up such deficiency by depositing additional stock. Said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom."

Mr. HARRIS I have no objection to the amendment, and I shall vote for it as an amendment to the report; but I then shall vote against the report as a whole, even as amended. If the report is to prevail, I should like to have that amendment in it. As I said before, I am in favor of taking what we have done in Convention. We had spent some time upon that, and I think we had met the views and expectations of the Convention more nearly than they are expressed in this report. As to what has been said by my friend from Des Moines [Mr. Hall] about these restrictions, I have only to say that if capitalists will not invest their money with these restrictions, it is sufficient evidence that they ought not to have banks. If corporations, or individuals in a private capacity, will not invest their money without having these restrictions taken out of their way, it is an additional argument for our having no banks at all. I am prepared to vote to keep these restrictions in, and I have no fear as to what my constituents will say. These remarks do not apply to me; for I am not manufacturing bunkum at all. I am doing what I think is right, and I am prepared to stand by it.

Mr. CLARKE of Henry. I desire to say one word in order that I may be perfectly understood. It is well known that I consider the principles embraced in these amendments as necessary to be incorporated into our Constitution. No one has contended for them more than I have. But I shall vote against the amendment at this time, believing that it will be easier for us, and that it will take less discussion to take up the report as it went into the hands of the committee and to complete it, than to attempt to take up this report made by the special committee and add all the amendmendments necessary to bring it up to what this body really want. It will take us longer to go over this, and incorporate into it the amendments actually discussed and passed here, than to go over the old report, and to consider the amendments which gentlemen may wish to make. I shall therefore at this time vote against this amendment, hoping that these principles which I desire to have adopted will be offered hereafter.

Upon this question—

Mr. HALL called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon the amendment of Mr. Wilson, it was adopted; yeas 22, nays 18, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Day, Ells, Emerson, Gibson, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Todhunter, Wilson and Winchester.

Nays—Messrs. Clark of Alamakee, Clarke of Henry, Clark of Johnson, Edwards, Gillaspy, Gower, Gray, Hall, Skiff, Solomon, Traer, Warren and Young.

County and City Indebtedness.

Mr. TRAER moved to amend section four by adding the following: "or become a stockholder in, or loan its credit to, any work of internal improvement to an amount exceeding one hundred thousand dollars;" so that the section shall read:

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"Sec. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly; or become a stockholder in, or loan its credit to, any work of internal improvement to an amount exceeding one hundred thousand dollars."

Mr. TODHUNTER. I would call attention to the first rule on page sixty-two of the Manual:

"95. *First Rule.* When a proposition consists of several sections, paragraphs or resolutions, the natural order of considering and amending it is to begin at the beginning, and to proceed through it in course by paragraphs; and when a latter part has been amended it is not in order to recur back and make any alteration or amendment of a former part."

The PRESIDENT. That is the general rule, but the practice here has been different. It has been usual to allow a member to recur to a preceding section, when a report has not been read through by sections. In a Convention like this the Chair is of the opinion that it would be bad policy to insist upon the rigid enforcement of that rule. Certainly it would not be in accordance with the custom which has prevailed here.

Mr. TODHUNTER. It certainly occurs to me that, as we have amended the latter part, it would now be a violation of the rules to recur back to a former section.

The PRESIDENT. The chair is inclined to entertain the motion for the reasons already stated.

Mr. TRAER. I suppose this amendment will be voted down. Yet I am fully convinced that we ought to place some limit to county indebtedness, and I am almost prepared to say that we should not allow them to run in debt at all. I am satisfied that the system is a bad one. In all probability the best thing we can do, if we do anything at all, is to limit that indebtedness to a certain amount. Then they may go into debt to that extent. We have provided that the State debt shall not exceed two hundred and fifty thousand dollars; yet, under this system of county indebtedness, the State is already in debt four or five times that amount. I should prefer to say that the counties should not go into debt at all, to leaving it unlimited; for I believe that it will result in the ruin, almost, of the people of this State, unless we adopt a provision of some kind in the Constitution. There appears to be no limit to the extent to which the people are willing to vote themselves into debt for the sake of securing these internal improvements. Some of the counties in this State are already in debt to the extent of more than half a million dollars. They have already issued their bonds for that amount. So far as I can learn, the State is now in debt some ten or twelve millions for these objects. If we allow this to go on, there is no telling where it will stop. I fear we should soon be where the State of Pennsylvania is at this time—almost bankrupt. I have felt it to be my duty to make some effort to stay this. I can, at least, put myself upon the record as opposing this county indebtedness. I have no disposition to discuss the question further. I already understand how the members of the Convention regard this question, and shall only ask that I may have an opportunity to place myself right upon the record; and, with that view, I call for the yeas and nays.

Mr. CLARKE, of Johnson. I move to amend the amendment by striking out the words "one hundred thousand." I wish to move, afterward, to increase the amount.

Mr. EDWARDS. If that is stricken out, I shall offer an amendment to restrict it to ten per cent. upon the taxable property of the county.

Mr. JOHNSTON. I hope the motion of the gentleman from Johnson [Mr. Clarke] will not prevail, and that the amendment of the gentleman from Benton [Mr. Traer] will be voted down. We have had the whole matter very thoroughly and fully discussed before, and as a compromise, I myself moved to strike out from the constitution everything upon this subject, so as to strike out both the prohibition and the recognition of county indebtedness.

The amendment of Mr. CLARKE was rejected.

The question recurred upon Mr. TRAER'S amendment.

Mr. SOLOMON. I hope the amendment will not pass. It does two things, both of which I am opposed to. In the first place, the amendment places restrictions upon the people, assumes that we shall define what is best for them to do, instead of leaving them to decide for themselves. I think we know just about as little of the capacity of any individual county to take stock as any body of men can know. It should be left to the people of the county themselves. It is a question which pecuniarily interests them only. It is to affect their future alone. I cannot conceive why this limit should be placed upon the counties, when we allow the entire State, by a vote of the people—the same kind of a vote, to assume indebtedness. I think the intelligence and the judgment of a county, so far as their own limits are concerned, are as great as those of a State. I am opposed to the amendment, therefore, that it assumes to decide for us what we should have the privilege of deciding for ourselves.

My other objection is this: It is known to a majority of this convention, and perhaps to all, that the voting of loans by counties to railroads and other internal improvements, is questionable as a matter of right, under our present constitution. Now, I undertake to say, that if we adopt this amendment, we shall adopt something which will, by implication, at least, confer upon them the power of running in debt to the amount of one hundred thousand dollars. The counties are component parts of the body politic, organized for certain purposes; and it is a great question whether this is one of the purposes. If we adopt this amendment, it con-

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fers upon them by direct implication the power to incur a debt of one hundred thousand dollars. I am opposed to the amendment.

Mr. CLARK, of Alamakee, moved to strike out "one hundred thousand dollars," and to insert "six per cent. upon the assessed value of the taxable property of such municipal or political corporation."

Mr. GILLASPY. I desire to say in explanation of the vote which I gave a few moments ago, upon the motion of the gentleman from Jefferson, [Mr. Wilson,] that I was opposed to the creation of this special committee. I was satisfied that the convention had advanced far enough, in its consideration of the article upon incorporations, to be ready to come to some conclusion long before this.

It has already been said that the propriety of sanctioning indebtedness of counties in aid of internal improvements, was a matter of doubt in the minds of some gentlemen at that time. I stated, at that time, that I did not know what was the wish of the people of my county in relation to the matter. Since then I have received various letters, all of which are in favor of leaving this matter for the counties to regulate for themselves. And there has not been a solitary petition presented to this convention, or a solitary article published in the newspapers, so far as I am aware, taking the opposite view of the question. I think this question does not legitimately belong to us. I speak for myself, at least, when I say that I am willing to let this stand where it stood in the old constitution—leaving the people to judge of the facts for themselves. Gentlemen seemed to be frightened almost to death in the early part of the session, and put various things into the constitution, which have since been voted down. I think there is just about enough now in this constitution to defeat it. Add a little more, and I will answer for it, that it will be defeated. I am opposed to any restrictions. I shall vote against the adoption of the report. I shall vote against all the amendments, and finally against the report itself.

Mr. TRAER. I have no objections to accepting the amendment. My only object was to put in some restriction; that we may have some limit where the country indebtedness shall stop. I hope the convention will indulge me a moment to say in reply to the gentleman from Wapello, [Mr. Gillaspy] that I have no fear that the constitution will be voted down; and if I had any fears upon that subject, it would not deter me from doing that which I conceive to be my duty and to be right. I should do that if I thought the constitution would be voted down, and leave the consequences with the people. Now I say that there is a principle in this amendmeat which should be adopted. We see that the state is running to extremes in its county subscriptions. This will certainly eventuate in ruin unless some check is interposed. I would like to ask those gentlemen who are opposed to state ndebtedness, what is the difference? What difference does it make whether the state becomes indebted by county subscriptions or by state subscriptions? The principle is the same. You involve the state in debt, and taxes are levied which will be burdensome. You ruin the prospects of the state in permitting wild-cat speculations in railroads to be carried on while a majority of the people of the state may be opposed to it, but have yet had no opportunity to express their will through the ballot box. I fear that it is very often the case that these votes are carried through by improper influences, which the people if left alone would upon mature reflection never have adopted. As I have before stated, this state is already in debt about twelve millions of dollars incurred in this way. The county subscriptions in the shape of bonds have become depreciated, so that it is almost an impossibility to obtain for them anything like a fair value. You cannot now get over seventy-five per cent for them: and soon you will be unable to sell them for more than fifty per cent. The result is that you are running the state into debt without any remuneration for it. You receive fifty or seventy-five per cent., pay interest, and when the bonds mature must pay the full value. I believe this system should be stopped just where it is. I do not believe that another county in the state should be allowed to take one cent of stock. Yet for the sake of compromise, in order to settle the question, I am in favor of putting into the constitution a restriction, and leaving it to the people to say whether they are in favor of it or not. I am satisfied that the people will uphold the convention in taking that position. I believe that there are hundreds of men who will vote for this constitution, who belong to the same party with the gentleman, if it contains this restriction, who will not vote for it unless there is some restriction. I am as fully convinced of that as, as I am of any other fact stated in this convention. I know that in the region of the state in which I reside, there are many of the party to which he is supposed to belong, who are in favor of a restriction. Suppose that this system of county indebtedness is allowed to continue, what will be the result in five years from this time? By the lowest possible calculation, we shall find that by leaving the question without restriction as proposed by the gentleman from Wapello, [Mr. Gillaspy] the people of the state will have incurred a debt of thirty or sixty millions of dollars within five years from this time. I ask the gentleman how we are to manage to pay off even the interest of such a debt as that, to say nothing about the principal itself.

The gentleman from Johnson, [Mr. Clarke] suggests that the roads increase the amount and value of property, This is very true. They may to some extent, and I know that is the argument held out to induce people to vote for rail-road grants. This is their argument. Vote for this railroad here and your farm will be worth fifty dollars an acre, while now it is only worth ten dollars. Make a man believe that that will be the case, and you at once secure his

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vote. That is the very reason I am in favor of a limitation. If men have the value of their land raised to that extent, they think it is a good operation, and they will vote for it. They do not reflect much upon the subject. These votes are always carried under an excitement. That is the first object, to get an excitement and rush the matter through without allowing the people time to reflect. I say that the position which has been taken by the gentleman from Van Buren, [Mr. Ayres] in favor of an entire prohibition is right in principle. I am satisfied of that, and am only willing to go to this limit, from the fact that I believe we cannot carry anything like a positive limitation, and I want to obtain the best thing that I possibly can for the people of this state. I wish to place myself right upon this record; for just as sure as the day rolls around, in five years from this time there will not be a gentleman present who will be willing to own that he opposed such a proposition as this, here and to-day.

Mr. GILLASPY. By leave of the convention I wish to say one or two words. I am astonished at the gentleman from Benton, [Mr. Traer.] He seems to have lost all that love and all that confidence which he had in the early part of the session for the intelligence of the dear people. If I mistake not he has been one of the loudest gentlemen upon this floor in speaking of the intelligence of the people. I am unwilling that the gentleman should throw out an imputation as he has now done here, upon the class to which I belong. He has said virtually that the farmers of this country are fools. He says you cannot go to them—I suppose he means a lawyer from the city cannot go to them—and tell them that their farms which are now worth ten dollars will be worth fifty dollars, without his being ready to vote for anything to accomplish so desirable a result. I think he would find two honorable exceptions to that—the representatives of Van Buren county upon this floor, [Messrs. Ayres and Day.] Now I venture to say that the farmers of this country are just as intelligent, and just as capable of judging what is right and proper for them to do, as the gentlemen of the legal profession hovering around the court house.

Mr. JOHNSTON. I will call the attention of the gentleman from Wapello [Mr. Gillaspy], to the fact that the gentleman from Benton [Mr. Traer] is a doctor, and not a lawyer, as I understand.

Mr. GILLASPY. Then I will extend it, and say that the farmers of the country are just as capable of judging for themselves as gentlemen of the learned professions of judging for them; just as capable as the bankers of the country; and that certainly will include the gentleman, for he is set down as a banker in our list of members. I say that the farmers of this State are just as capable of judging what is right and proper for them to do as any gentleman sitting in this convention. And now it is proposed, in the absence of a solitary petition, to overturn the universal practice.

The eastern counties have voted loans for the purpose of building railroads from the Mississippi to the Missouri river, with the expectation that the same privilege would be extended to the counties west of them, and thus that there would finally be a continuous road traversing the entire State. And for the convention to say to-day, by their votes, that the people shall be deprived of that right, is uncalled for, and, in my judgment, it is wrong. As I stated upon a former occasion, my county has already voted for one road—and a very important road—one hundred thousand dollars, the road from Burlington to the Missouri river. She may desire, and I believe she will at the proper time, vote a loan to the Keokuk, Fort Des Moines and Minnesota Railroad. I think she may wish to do that; and I intend, so far as my vote is concerned here, that she shall have the right to do so when she desires. I know that to-day the people of my county—and we are most of us tax-payers there—would be willing to vote a loan of one hundred thousand dollars to extend the North Missouri Railroad from the State line to the town in which I reside. I know they intend to do it, unless the wisdom of this convention should forestall their action; something which I do not believe will be done; certainly I hope it will not. In contracting debts for myself, I have no regard, so far as any law or constitution is concerned, to any limit; and I hold that any county is just as capable of contracting a debt as I am, or as any other individual; and they are just as responsible for it. They will have to pay the debt, and they should have the right and privilege to contract it upon all occasions, and at all times, for purposes of internal improvements, which they regard of sufficient importance to justify the loan. I hope, therefore, that the amendment offered by the gentleman from Benton [Mr. Traer] will not prevail.

Mr. SOLOMON. This amendment changes the features of this question. As prepared, the amendment was to limit the counties to one hundred thousand dollars. The amendment, as it now stands, is to limit them to six per cent. I merely wish to throw out one or two suggestions with regard to this; not that I have any fear that it will be adopted, but because I think that justice to my section of the country, my constituents, and also to myself, require me to do so. This proposition will change the nature of railroad loans entirely. Now I ask gentlemen to consider the present condition of the country in regard to that subject. Along the line of the railroad upon which I live, five or six counties have already taken stock. The county of Des Moines, and four or five counties west of it, have taken stock in the railroad from Burlington to the Missouri. Several other counties propose to take stock. My own county has subscribed to the amount of two hundred and fifty thousand dollars. If this amendment should prevail, the intermediate counties would be prevented from taking stock to anything like the extent to which these other counties have already taken it. Yet

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these counties which have taken stock have done so with the expectation that the intermediate counties would bear the burden with them, and authorize a subscription to the roads equal to their own, which this amendment will prevent them doing.

I wish to call attention to another feature in regard to the amendment. Although my county has voted two hundred and fifty thousand dollars to the Burlington Railroad Company for their Railroad; and although at the proper time her bonds will issue for that amount, still there is a condition in the vote which amounts to a great deal. Mills county does not propose at this moment, this day, or next week, to assume the issuing of her bonds, and exchange them for stock in the Railroad Company, but they propose to do that at some future period. She has said, as a condition of the grant, that the bonds shall not be given by her officers, and shall not be required by the company, until the road has been completed to the limits of Mills County. Now if you put this amendment in force, what is the result. Mills county under that amendment could not have voted at the time she made this loan, for a loan of one-fourth the amount. But I undertake to say that when the time shall come for the issuing of these bonds by Mills county, she will be authorized, even under that amendment, to incur nearly, if not quite, that amount of indebtedness. If the amendment prevails, the other new counties, which may wish to vote a loan to this railroad, will have to come within the limits prescribed in the amendment at the time they vote, and thus, perhaps, they may not be able to vote any amount which would be of any material value to the railroad enterprise. If we impose any limit at all—and I am opposed to any limitation—it should be prospective. The provision should be so formed that the county should not go over and above a certain ratio at the time the bonds shall be issued, if it is to be made equitable at all, for that is the way these bonds are voted.

I hope the amendment will fail for still another consideration. The fact is that if there is any danger in assuming this county indebtedness, my own county has already got her head under the fence, and I am opposed to anything which will leave her to stand still where she is, and prevent the other counties along the line from coming to the rescue.

Again, the right of counties hereafter to assume indebtedness, and the right of the counties which have thus assumed it, are questionable. The Supreme Court may decide that these bonds will be illegal and void. If they are to fall at all, I wish the whole of them to fall together.

Mr. CLARK, of Alamakee. This question has been thoroughly discussed once before, and I move the previous question.

The demand for the previous question was seconded, and the main question was ordered.

Mr. TRAER accepted the amendment of Mr. Clark of Alamakee.

The question was then stated upon the amendment as modified, to add to section four the following:

"Or become a stockholder, or loan its credit to any work of internal improvement to an amount exceeding six per cent. upon the assessed value of the taxable property of such municipal or political corporation."

The question being then taken, by yeas and nays, the amendment was not agreed to; yeas 11, nays 24; as follows:

Yeas—Messrs. Clark of Alamakee, Edwards, Ells, Gray, Hollingsworth, Seely, Skiff, Todhunter, Traer, Warren and Wilson.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clarke of Johnson, Day, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Solomon, Winchester and Young.

The question was stated upon the report of the special committee as amended.

Mr. CLARKE, of Henry. If that is rejected we recur to the old form.

The PRESIDENT. That is the opinion of the chair.

The question being taken, by yeas and nays, upon the report of the special committee, it was rejected; yeas 18, nays 19, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Gibson, Gower, Gray, Hall, Hollingsworth, Johnston, Price, Skiff, Todhunter, Traer, Warren and Young.

Nays—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Ells, Emerson, Gillaspy, Harris, Marvin, Palmer, Parvin, Patterson, Peters, Robinson, Scott, Seely, Solomon, Wilson and Winchester.

Mr. PETERS moved that the convention take a recess until 7 o'clock P. M.

Mr. SKIFF moved that the convention adjourn.

The motion to adjourn was rejected, upon a division; ayes 15, noes 18.

The motion to take a recess was rejected.

Mr. TRAER. What is the position of the question?

The PRESIDENT. The report is before the convention as it was before it was referred to the special committee.

Mr. WILSON. I offer the following as a substitute for section two. To strike out—

"Corporations may sue and be sued, and their property shall be liable to taxation in the same manner as natural persons; and the liabilities, powers, privileges, and duties of stockholders in corporations may be fixed and defined by law, subject to the provisions hereof."

And to insert—

"The property of all corporations for pecuniary profit, now existing, or hereafter created,

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shall forever be subject to taxation, the same as property of individuals."

I think it is wholly unnecessary to provide that a corporation shall sue and be sued. They would be liable to that without this provision. It is that which constitutes the very life of a corporation. And so with regard to the latter clause of the section; it is merely providing for something which would exist without it.

Mr. SOLOMON. We are just commencing to amend this article; it is late; and I move that the convention adjourn.

The motion was rejected; ayes 15, noes 18.

Mr. SKIFF. I move that this subject of incorporations be laid upon the table, and made the special order for Friday morning. I am not now prepared to vote upon the subject. It has been some time since the article has been before us in this form, and my copy of the report has been taken from my table.

Mr. CLARK, of Alamakee. I hope the motion will not prevail.

Upon this question—

Mr. GILLASPY called for the yeas and nays, which were ordered.

The question being taken, by yeas and nays, upon the motion to lay upon the table, it was not agreed to; yeas 17, nays 18, as follows:

Yeas—Messrs. Bunker, Clarke of Johnson, Edwards, Emerson, Gower, Gray, Hall, Hollingsworth, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Traer and Young.

Nays—The President, Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Ells, Gibson, Gillaspy, Harris, Johnston, Marvin, Palmer, Parvin, Patterson, Todhunter, Warren, Wilson and Winchester.

The question recurred upon Mr. Wilson's amendment.

Mr. CLARKE, of Henry. I find in the old constitution a provision similar to that of the second clause of this section proposed to be amended, leaving it to the legislature to define the liabilities, powers, privileges, and duties of stockholders. The old constitution provides that—

"The stockholders shall be subject to such liabilities and restrictions as shall be provided by law."

With regard to the portion of the section prescribing that corporations may sue and be sued, the gentleman will find it in nearly every other State constitution—and it grows out of this—not that they cannot sue and be sued without this, but because the Legislature will grant them certain privileges, and we must guard against any corporation becoming independent of the constitution. I am in favor of keeping that section exactly where it stands.

The question was then taken upon the amendment proposed by Mr. Wilson, and it was rejected, upon a division; ayes 7, noes 11.

Mr. CLARKE, of Johnson. I move to substitute the amendment which I send to the chair for section six to section seventeen inclusive; and upon that I call for the yeas and nays.

The PRESIDENT. The chair will inquire whether this has been before the convention heretofore.

Mr. CLARKE, of Johnson. I think not, sir. It was in committee.

The PRESIDENT. It is the impression of the chair that it has been; and if so, it is not in order.

Mr. CLARKE, of Johnson. If the Secretary will look at the minutes, and finds that I am right upon the record, I am satisfied.

Mr. PATTERSON moved that the convention adjourn.

The question being taken, by yeas and nays, upon the motion to adjourn, it resulted—yeas 21, nays 14—as follows:

Yeas—Messrs. Bunker, Clarke of Johnson, Edwards, Emerson, Gower, Gray, Hall, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter and Young.

Nays—The President, Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Ells, Gibson, Gillaspy, Harris, Marvin, Traer, Warren, Wilson and Winchester.

The convention accordingly adjourned until to-morrow morning, at 9 o'clock.

THURSDAY, February 26th, 1857.

The Convention met at 9 o'clock, A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of yesterday was read and approved.

Miscellaneous.

The PRESIDENT announced as the select committee to which was referred the resolution in regard to the distribution of the journal of the debates:

Messrs. Winchester, Hall and Todhunter.

Mr. GIBSON. I offer the following resolution:

"*Resolved*, That this convention meet each evening at seven o'clock, in addition to the regular sessions, during the remainder of the sitting of the convention."

I believe that under the rule that resolution will be required to lay over for one day. My object in offering it is to expedite the business of this convention. We have a great deal of business on hand, and the time of adjournment is near at hand. But a few days remain. It strikes me that it would very materially aid in expedi-

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ting the business of the convention for us to have evening sessions. We should probably accomplish as much in the evening as in half a day. In order to test the sense of the convention upon that subject, and to learn whether they are willing to make such an arrangement, as laying the resolution over would necessarily retard its operation one day, I move the suspension of the rules that it may be read the second time now.

Mr. SKIFF. I move that the further consideration of the resolution be indefinitely postponed.

The PRESIDENT. The resolution is not under consideration unless the rules are suspended.

Mr. HARRIS. I object; I could not come in the evening in the present state of my health.

School Fund.

Mr. JOHNSTON. I offer the following resolution:

"*Resolved*, That a select committee, consisting of three members, be appointed to inquire into the expediency of reporting an additional section to the article upon education and school lands, providing for the proper disposition and investment of the permanent school fund."

At an early period of the session, I offered a resolution, calling the attention of the committee on the school lands to this subject. Their report has come in without any provision with regard to the permanent school fund. The members of the committee inform me that they are all in favor of some permanent investment of this fund, and desire that the subject should come up as an amendment to their report. I drew up such an amendment and presented it to several members; but I found that while they all agreed with regard to the importance of the subject, and the propriety of making an investment, there was some difference of opinion as to the details. At the suggestion of some gentlemen yesterday, I offer this resolution this morning, that we may have the whole matter investigated and a section reported. I think if the resolution should be at once adopted, the committee could put an amendment into shape today to be presented when the subject comes up.

The resolution was agreed to.

The PRESIDENT appointed Messrs. Johnston, Clarke of Henry, and Clark of Alamakee.

The special order for the day was the report of the standing committee on education and school lands, as amended in committee of the whole.

Incorporations.

Mr. CLARKE, of Johnson. I move that the special order for this morning be laid upon the table for the purpose of proceeding with the article on incorporations. I wish to have that finished and out of the way.

The motion was agreed to.

Mr. WILSON. I rise for the purpose of moving to reconsider the vote taken yesterday by which the convention refused to concur in the report of the special committee on incorporations. I find a disposition upon the part of the friends of the report now pending before the convention, to hold this convention to that report as it now stands. With that I am not satisfied. If I had been satisfied with that report, I should not have moved its reference to a special committee. I voted for some things in that for the purpose of keeping along with its friends, in order to amend it finally and to bring it nearer to my views. I find that that would be useless to attempt. I find upon the part of the friends of the report of the special committee, on the other hand, a disposition to compromise. The friends of that report have yielded one point for which I have contended ever since the question came into the convention, that in relation to the right of appeal. That point was yielded, and that amendment placed in the report yesterday, in relation to stock banks, meets my views nearer than the corresponding section in the report now before the convention. As I understand that the friends of that report are willing that it should be modified in another respect, and as I find that there is a greater disposition upon their part to yield and allow it to be put into a proper shape, I move to reconsider the vote rejecting the report of the special committee yesterday.

Mr. CLARKE of Henry. It is well known that at the time there was a motion made here that the report of the standing committee on incorporations should be referred to a select committee, I opposed the resolution. We had had more discussion, and more careful examination of that report than of any report which had been before the convention. Every section was critically examined. Every amendment was duly weighed and discussed. And this Convention deliberately passed upon each section of that report. Nearly every amendment that was adopted, was carried by a large majority. There was not a single section which the gentleman could put his finger upon, which was not adopted by a large majority of this body. If this is to be sanctioned, that because members do not have all their ideas and favorite plans inserted in the Constitution, they must have special committees, to make special reports, and to strike out half the work of the whole body, and if we are to accept of their action, I say that it is time we should know it. It certainly is a most singular proceeding. Are we here like a parcel of boys, to build cob-houses to-day and to tear them down to-morrow? Did we not go through and complete this? Was not all the work done up to enrolling, when the special committee was sprung upon the body, and adopted by a majority of one vote?

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The select committee went to work. They come in here with their report; and what does that report say? It says that eleven of those sections which passed this Convention after full discussion, and by large majorities, are useless in the Constitution and should be thrown aside. What were those useless sections? They were the very vital parts of the article, the very sections on which we had the most exciting discussion, and which we adopted by the largest majorities. Those sections this select committee struck out. They report to us very nearly the same article which we sent to them, except that they left out some of it. I was in favor of every restriction contained in the report of the majority of that committee. I said then that I would go as far as he who dared to go farthest, in placing restrictions upon the powers of banking corporations under our law. That was my position. And when the special committee ask us to take less without giving any reasons, without telling us wherein their report is superior to that of the majority of the standing committee which had been offered upon this plan, when they do not say that a single section is wrong and ought to be thrown out, I claim the right to prefer and to stand by the work sanctioned here by the majority of this body. I had no objection to the report of the select committee so far as it went. But let me ask the gentleman if he was satisfied. I think that report came to us with his solemn protest appended, that he did not concur in it. It is not for me to ask the gentleman how far he concurred in it, or how much further than that he would have preferred to go. But I d. deliberately ask this body, whether, after having gone over the report of the Committee on Incorporations, and after having made amendments to it, passing section after section of it, after comparing views and ascertaining so fully what the majority really wanted, and then looking at the report showing us what it is that the majority of the select committee desire, they will concur in the report of that select committee. And I ask if under such circumstances I was not justifiable in voting to go back to our own work as it went to the committee. That committee could not agree any better than we did.

What is it that gentlemen want to do here? They want us to give up this work, and go back and take up the report of the minority of the committee. In that minority report they have left out this amendment made by the gentleman from Johnson (Mr. Clarke.) The ninth section read as first reported:

"Sec. 9. The general assembly may also charter a State bank with branches, to be founded upon actual specie basis, or upon stocks as authorized in the seventh section, or both."

A large majority, upon motion of the gentleman from Johnson, decided to allow the State Bank to use the same kind of stock as a basis which it had specified and required should be used under the general banking law of the State. Then here is this wonderful eleventh section about which I c re very little, and yet which is sanctioned by the constitution of almost every State in the Union, and which is sanctioned by both reports of the committee on the school funds and school lands. But this comes in without that section, making it the duty of the legislature to adopt guards and checks. The eleventh section provides:

"Sec. 11. It shall be the duty of the General Assembly, in case of its passing either or both of the banking laws herein provided, to provide also such other restrictions, and fix such other liabilities, and adopt such other guards and checks as shall be conducive to prevent frauds on the part of banking institutions, its officers and directors, and to secure to the people of this State a safe and reliable currency."

To go back and look over the reports we find that the first section has been changed very little. The second section, providing that corporations may sue and be sued, has been voted upon, and a majority of this body have voted in favor of it again. That they have left out of their report. Let us go on to section five:

"Sec. 5. It shall be the duty of the General Assembly to provide by law for the restraint of municipal and political corporations in regard to assessments, taxations, borrowing money, contracting debts, issuing bonds, and loaning their credit, so as to prevent, as far as possible, unnecessary burdens and undue taxations and frauds."

This section is borrowed, almost verbatim, from the Constitution of the State of New York. It occurs in the constitutions of many of the other States. In the sixth section the Committee makes a little alteration. The seventh section, which characterizes the stocks to be used as a basis, &c., is stricken out entirely. The eighth section, providing for the individual liability of stockholders, is also stricken out. Now I ask if there are not a large majority upon this floor in favor of those sections? From the ninth section, as I have already stated, they have stricken the amendment offered by the gentleman from Johnson, [Mr. Clarke,] and adopted by the Convention. The eleventh section, providing for checks and guards against fraud, adopted by a large majority, they have stricken out. The twelfth section, for the security of the bill-holders of an insolvent bank, and discussed very freely here, and which was adopted here by a large majority, is left out. The thirteenth section, forbidding the suspension of specie payments by any banking institution, is left out. And thus they have gone on with the work of demolition.

It is far easier to tear down than to build up. When gentlemen undertake to strike out section after section of an article because they cannot see the necessity for them, I think it would be better for them to gain a little by experience. I tell you, sir, that these provisions have every one of them grown into the Constitutions of other States as the results of experience and

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practice. Look at the legislation in Illinois. You find that the General Assembly have just been to work to patch up something to supply this very want in their own constitution. In their constitution you will find that they have made very little provision for any security. The gentleman from Johnson, [Mr. Clarke,] did not wish to provide that the law should go to the people to be voted upon; for the Legislature that made the laws passed them and submitted them to the people, and the people sanctions them; and yet they afforded no security. I wish to read, from the Chicago Daily Tribune, of February 24, an article on this subject:

"MR. DUNHAM'S BANK BILL—ITS EFFECT ON THE CURRENCY OF THE STATE.—The anticipated passage of Mr. Dunham's radical amendments to the general banking law, had a very salutary effect upon the rag-moving machines which were at the date of the meeting of the legislature, deluging the country with their issues. The owners and engineers of too many of these, secure in the confidence which the people reposed in the banking system which they had adopted, had gone systematically to work to evade, if not practically defy, the law by which banks of issue were sanctioned. Without real capital above the few thousands of dollars which were necessary to pay for the printing of their notes, and discharge the other small expenses incident to the business, they had borrowed in New York the bonds upon which their issues were based and by which they were secured, and had at once, without care for the way in which those issues were to be redeemed, bent all their efforts to get circulation, confident that, under the absurd decision of the late Auditor—a decision persisted in, contrary to light and knowledge—they could stave off redemption indefinitely, or until their expected profits would enable them to satisfy the public. Mr. Dunham's bill fell among these like a bomb shell. A few of them gave up the ghost at once; like Captain Scott's coon, they came down before the piece was fired. Their currency began to pour into the Auditor's office at the rate of nearly half a million of dollars a month, and liquidation was the only talk. This, remember, was before the passage of the bill. What effect the law itself will have, we will now consider:

"1. Banks that have commenced operations without real capital, depending upon their ability to comply with the law, by redeeming their issues in new silver coin, one dollar at a time, will of necessity be compelled to withdraw their circulation and wind up their affairs. Of these there are more than we, and the public through us, have heretofore believed. Many of these have no local habitation—only a name. Their notes, sent out from Wall street with their Missouri or Virginia bonds, have been signed in Springfield by a Cashier and President picked up for that service, and though nominally doing business in towns in Egypt, have no places where their issues can be presented and redeemed. We say it upon good authority when we assure the bill-holders that these institutions will receive no mercy from the Auditor and Bank Commissioners now in power. These officers have determined that the law for all such, shall be rigidly enforced, and that, if discrimination, within the law, is to be made, it shall be in favor of those banks which are honestly doing business in accessible places and with a show of capital.

"2. Banks bottomed on something more than bonds and immunity from the demands of troublesome customers who would persist in wanting specie, will hereafter limit their issues to an amount consistent with their ability to redeem. Even these have, until now, used their circulation as the principal source of profit, neglecting to a great extent, the legitimate offices of banking institutions; hence it has been their policy, also, to push their issues to the uttermost. The necessity which now exists, when their notes are presented for redemption, without delay and in legal coin (not new silver, except in sums of five dollars and less,) will compel them to the exercise of greater care in shoving out their promises to pay. Contraction will only make them stronger; and if they can demonstrate their ability to pay their obligations when pay is demanded, they will rise higher and higher in the estimation of those upon whom they depend for support.

"3. It is certain from the facts stated above, that the amount of Illinois currency will be greatly reduced, and that with little delay. How great the reduction will be, cannot now be told, because there are none who know the exact condition of the banks. Some men who think they have the gift of prophecy, say that every bank in the State will be closed; but this is to assume that all are doing business on a fictitious and an unsubstantial basis, which certainly is not true. If between the banks which have no capital, and those that are compelled to use their capital more cautiously, the currency is reduced a half in amount—from six millions to three millions—the reduction will be greater than that designed or contemplated by those who framed the amendments which have just been incorporated in the banking law.

"4. After the excitement of the day is over and the banks become reconciled to the state of things now existing, Illinois currency, though its amount may be lessened, will be wonderfully improved in all the qualities which give value to paper money. One of the principal objections urged against Mr. Dunham's measure was this: If we compel our banks to do what the banks of New York and New England do, we place them at the mercy of the brokers. The objection is a fallacy and will be so proved; because when bank paper here becomes what bank paper is in the older States, the fear of brokers is at an end; currency is so near to specie in value that the difference between coin and notes offers brokers no reward for the risk assumed, and interest of money lost in harrassing banks for coin. It is only when currency is permitted

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to depreciate that there is danger of the banks issuing it being called upon to bear a continuous run.

"5. Parties who have until now refused to go into banking, under the general law, because of the ruinous competition to which they would be exposed from men who had everything to gain and nothing to lose, are already making arrangements to organize banks of issue. But few new institutions will be put in operation, but many of those now existing will change hands.

"So far as we can now judge from the expressed opinion of the best financiers of the State, there is little cause to apprehend any serious derangement of business from the working of the amended law. If it has no other effect than to root out the red-dog and wild-cats that have obtained a foot-hold in the State, the labor of the Illinois Legislature will not have been in vain. But it will do more. It will, if honestly administered, according to the meaning and intent of its framers, put Illinois currency on a level with that of the best currency of the country, both at home and abroad, if its security is considered. To warrant its instant and cheap convertibility, the legislature has yet another step to take. In another column we publish the amendments to the Banking Law, effected through the labors of Mr. Dunham, to whom the public are deeply indebted for the passage of this excellent and much needed law."

In another column of the same paper we find these amendments. Now what are these wonderful amendments to the banking law? One makes it compulsory upon them to redeem their paper in specie. Another is that you may go there and produce their notes in the bulk, and not each individual one, and they must be redeemed. This amendment with regard to the suspension of specie payments, which we have incorporated in this article, but which has been left out by the special committee, would have saved Illinois all this trouble. Yet after the report of the standing committee had been acted upon by this body, and the wishes and expectations of the large majority had been put upon record, the special committee coolly take their pen and draw it over nine or ten sections of that article upon which we had agreed.

Then the committee go on and incorporate the substance of sections sixteen and seventeen in their report, and strike out the eighteenth, which is this:

"Sec. 18. No corporation shall hold any real estate hereafter acquired, for a period longer than twenty-five years, except such real estate as shall be actually occupied by such corporation in the actual exercise of its franchise, but the same shall escheat to the State for the benefit of the school fund."

If the gentlemen upon that committee will give any reasons for leaving out that eighteenth section, when the matter had been fully discussed here, and when it is known that the same provision is incorporated into other constitutions, which will commend themselves to the good sense of members of the convention, I should like to hear those reasons. Everybody understood when we were discussing that, what was the object of it. It is to prevent a corporation from holding large quantities of real estate, and keeping them for a series of years for speculating purposes.

Mr. YOUNG. I will inquire whether the gentleman has not exceeded his fifteen minutes. These matters have all been discussed before, and gentlemen have made these same speeches. I must object to the gentleman going on beyond his fifteen minutes.

The PRESIDENT. The chair will notify the gentleman when his fifteen minutes have expired.

Mr. CLARKE, of Henry. Then we come to the twentieth section:

"Sec. 20. The word corporation, as used in this article, may be construed to mean any individual, association, or company, having or enjoying rights and privileges through provisions of law not possessed by every individual or partnership."

This section shows what we mean by a corporation. You have only to inquire whether a certain individual, association, or company, enjoys these special rights and privileges, in order to determine whether they are corporations or not within the meaning of the constitution.

I have now gone through with the principal sections left out by the special committee, every one of which had been voted upon, and carried by a large majority of this convention. For the life of me I cannot see why we should go back to reconsider our vote by which we refused to concur in the report of the special committee, in order to take up that report, and go over all this ground again. I ask gentlemen here what they are to gain by it. Unless somebody spring the previous question, so as to cut off all amendments, every one of these sections has its friends here who will move it as an amendment to the report of the special committee, and it will be adopted. There is nothing to gain; but there may be something to lose, for if one of these sections is lost, the majority of the convention are really deprived of the opportunity of expressing their opinions, and carrying out their wishes with regard to this law. Gentlemen say that there are some amendments wanted. There is one that I want as much as anybody. And it is the very one suggested by the gentleman from Jefferson. I am in favor of it. But I would reach it in the usual way. Let the motion be made to refer this article to the standing committee with instructions to report that amendment, and of course it will be done. The gentleman from Lee [Mr. Johnston,] wanted an amendment made to the report of the committee on education. I thought at the time it would have been better to have referred it to the standing committee with positive instructions, for if

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that had been agreed to, they would undoubtedly have complied. But he moved as he had a right to do, a reference to a select committee. So with regard to this matter, a motion can be made to refer with instructions—

The PRESIDENT announced that the fifteen minutes had expired.

Mr. PARVIN. I voted against the adoption of the report of the special committee; and I did so because I thought that after the convention had made all these amendments, I could not strike out in that summary manner so much that they thought necessary. But I intend for one to vote in favor of reconsideration, believing that we can amend this report better than to take the old one. I see that the views of the gentleman very nearly agree with my own with regard to the amendments necessary to be adopted. If we take the old report, we cannot amend it without referring it to another committee. As a member of the standing committee upon incorporations, I feel perfectly willing that this should be dispensed with, and considered as if it had been referred. I have no feeling with regard to the matter. When this report was returned to the convention before, it was so changed that its followers did not know it; and perhaps it might share a similar fate if it were to be referred again. I came here with no expectation of getting such a constitution as I wanted in every respect. I expected to make concessions, and to yield much that I should be glad to see adopted. But when this report came in I was surprised to find it such a system, as I never supposed that the majority of the special committee would report. I look upon it as being, in the western phrase, a wild-cat system, with no restrictions at all. I am in favor of restrictions. I do not wish the legislature to have full power to create banks without any restrictions whatever. I wish to reconsider for the very purpose of placing in these restrictions, those that I think it important to insert. But without those amendments I cannot vote for the adoption of that report. If we refuse to reconsider we have no resoucre but to refer the report, as it passed in the convention, to the same committee, or to a select committee again. This is a round-about way of amending it which I wish to avoid. We shall attain what we wish in much less time if we take up the report of the select committee, and amend it as the majority of the convention wish to do. Entertaining these views, I shall cheerfully vote to reconsider; and I hope the majority will agree to reconsider the vote, amend the report of the special committee by putting in all these necessary guards and restrictions, and then adopt it.

Mr. WINCHESTER. I believe I voted yesterday with the majority upon this question. I intended to make the same motion this morning which the gentleman from Jefferson [Mr. Wilson] has made, for the purpose of giving the convention an opportunity of adopting this report and disposing of the subject at once. As the gentleman from Henry [Mr. Clarke] has said, this question has been discussed fully, *pro* and *con*, for six or eight days, during this session. I think there is no necessity for any further discussion upon this motion, and I therefore move the previous question.

Mr. TODHUNTER. Will sustaining the previous question now, cut off amendment of the report afterward?

The PRESIDENT. The main question now is upon cutting off debate upon the motion to reconsider.

Mr. TODHUNTER. And would that affect the report, after reconsideration?

The PRESIDENT. Not at all.

The previous question was sustained, upon a division; ayes 19, noes not counted.

Mr. CLARKE, of Henry. I understand that the previous question was moved yesterday upon concurring. What will be the effect of that, if we go back and take up that report? Will that still be in force?

The PRESIDENT. The Chair will consider this vote as equivalent to removing the restriction imposed by the action of the convention yesterday in sustaining the previous question. If this motion prevails, it will remove that restriction.

The question being taken, by yeas and nays, upon the motion to reconsider, it was agreed to; yeas 24, nays 11, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Gibson, Gower, Gray, Hall, Hollingsworth, Johnston, Marvin, Parvin, Patterson, Price, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester, and Young.

Nays—Messrs. Ayres, Clark, of Alamakee, Clarke, of Henry, Day, Ells, Emerson, Gillaspy, Harris, Palmer, Peters and Robinson.

The question was stated upon the report of the select committee as amended, the report being, in the opinion of the Chair, still open to amendment.

Banking Corporations.

Mr. WILSON moved that the following section be inserted after section six:

"Sec. 7. If a State Bank be established, the branches shall be mutually responsible for each other's liabilities upon all paper credit issued as money, and such banks shall be founded upon an actual specie basis."

The amendment was agreed to.

Liability of Stockholders.

Mr. PARVIN moved to add the following section:

"Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an

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amount equal to his or her respective shares so held, for all of its liabilities."

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, which were ordered.

Mr. CLARK, of Alamakee, moved to amend the section by adding—

"And in all cases where its stock shall be transferred, the liability of the transferer shall not cease."

Mr. PRICE. I will ask the gentleman to adopt the more common term, "assignor."

Mr. CLARK, of Alamakee, accepted the modification.

Mr. PALMER. I will ask the gentleman to modify his amendment by adding the remainder of the section as it stood before, as follows:

"Nor shall the liability of the assignee commence until the expiration of six months after such transfer shall have been duly recorded, as provided for by law."

Mr. CLARK, of Alamakee, accepted that modification also, and called for the yeas and nays upon his amendment as modified, which were ordered.

The question being taken, by yeas and nays, upon the amendment, it was not agreed to; yeas 17, nays 18, as follows:

Yeas—Messrs. Ayres, Clark, of Alamakee, Clarke, of Henry, Day, Ells, Emerson, Gibson, Gillaspy, Harris, Marvin, Palmer, Peters, Price, Robinson, Scott, Seely and Solomon.

Nays—The President, Messrs. Bunker, Clarke, of Johnson, Edwards, Gower, Gray, Hall, Hollingsworth, Johnston, Patterson, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Mr. EMERSON. I move to amend the amendment so as to read as follows:

"The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credit to circulate as money, shall be individually liable during the time of their being officers or stockholders of such corporation or association."

I came here, as I have remarked before, opposed to any alteration of our constitution with reference to the subject of banking. I am aware that in the State of Iowa much has been said about it, and that a number of our citizens, probably a majority, are in favor of, what has been termed, a "safe banking system." I appeal to this convention, and ask whether any gentleman upon this floor has been instructed by his constituents, or has heard the first word anywhere in favor of any other than a safe system of banking, in the State of Iowa? That safe system has been advocated in contradistinction from the wild-cat and red-dog system. How are we to get a safe system of banking? How are we to improve upon this wild-cat system? What mode have gentlemen laid down here by which we are to escape that gulf of wild-cats and red-dogs? We are very pleasantly told here, that the way to do it is—what? Just to refer it to that very body which has created all the wild-cats and red-dogs that have ever existed—the Legislature. We are told that if we undertake to throw restrictions around the banking system which are calculated to force men to be honest, you destroy the system, for you will get nobody to bank! A very pretty commentary upon banking in Iowa.

Yes, sir; gentlemen come forward and forewarn us that if we surround the system with such safeguards as will make men honest in the discharge of their duties as bankers, we shall destroy the system! What is the inference? In order to have banking, we must give men an opportunity to rob! Otherwise, they will not bank at all. By that means are we—the people of Iowa—to obtain a "safe banking system."

I ask gentlemen to consider, for a moment, in what State of this Union, or in what territory, has not the legislature governed and given charters and privileges to its banks? What is the manufactory which has created all these wild-cat systems? It has been the legislature of the different States and territories, unbridled and unchecked. Yet, sir, the legislature of Iowa is to give us a safe and sound banking system! Strange doctrine. Strange at this day, and in this place, indeed, to me.

It has been said and generally believed, that banking is a profitable business. When is it profitable? If it is profitable when honestly conducted, why need gentlemen shudder at throwing these guards and restrictions around the banks, which shall make them honest, although I should consider that about as natural as to make an honest devil. But that men with one accord should not be ready to come forward and institute thorough guards around the system, which may secure to the people a safe and sound currency, is strange. It is beyond being strange. The argument, to my mind, means but one thing, and that is simply as I have already remarked, unless you allow them to rob they will not bank. I know of no good reason why a man who should undertake to bank and thus to a greater or less degree force upon the community his promises to pay, should not be individually bound by those promises to pay, in the same manner that we are all bound individually. There is no good reason for it. It is said by gentlemen, and it is an old idea, that if you bind these men individually, they will not go to banking, and as a consequence we cannot have their shin-plasters. If we make these shin-plasters good, dollar for dollar, they will not go in banking. So far as I am concerned, I desire to have none of them unless they are upon a substantial basis; for if they are not, it is no more or less than the beautiful wild-cat system. When you go to look for the bank or the banker, he is just where you cannot put your hand upon him. Yet that is this much talked of "safe banking system" that Iowa is to have to

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keep out these shin-plasters of the other states and territories.

The gentleman from Henry, [Mr. Clarke] has referred to the constitution of Illinois, and has read an article showing the working of that system. He has shown us that when the legislature attempted to catch these brokers under the constitution of that state, the bankers have always outwitted them. Now compare that with the report of the special committee now before us. I wish the people of this state could have an opportunity of reading that beautiful document which is to adopt the same plan, and thus to constitute in Iowa the same beautiful system of "safe banking;" that is to give to Iowa a currency safe and secure. How any man could come to the conclusion from that document, that it is to afford us what the people desire, is to me the strangest thing in the world, because there is not a solitary restriction proposed to be thrown around the system—not one.

It is said that it is restriction enough that we refer the matter back to the people: and as a consequ nce, when the people come to vote upon it, they will not vote for anything that will injure them. That doctrine may look very well at first sight; but I ask the judgment of this convention, and ask them to tell me what it could be, in the present state of things, which should be the theme before the people in the shape of banking, that would not find advocates, that class of advocates who would take the pains to go round and tell the people, "all will be right, I am going to be the banker; you have known me long and well: I hope you do not fear that *I* would take any advantage of you, or that anything will be done by me which is not exactly right and proper." These gentlemen know exactly how to tell these tales; exactly how to work upon the people. But says some farmer to him, "well, my dear friend, I understood that a certain individual from Dubuque offered an amendment making you individually responsible; what objection had you to that?" "Ah," says he, "it is of no use to talk about things of that kind; if there was such a provision as that, we should have no banks at all. You certainly cannot think that I would not be just as honest without it as with it?" That is the way things would go. That is the way men are imposed upon by that class of people. That is the way all wild-cat systems have been enacted. And when we see what others have had, it seems to me that it is no more than reasonable to infer that from the same causes the same effect will be produced. It is as clear as the noonday sun, that such must be the state of affairs in Iowa, if this course of action is to prevail here; and from the vote that has been taken I fear it is.

As I have before remarked, I am to some extent opposed to all this matter. When we have made the system the best that we can, what does it amount to. What is free banking? You all understand it; and it is hardly necessary to explain it. What is its basis? It is the indebtedness and poverty of this country. You propose by the promise to pay of the state and national governments, to find a basis to found the validity and security of your banks upon. That indebtedness is what is to make them secure. Now take into consideration the circulating medium of this country; and when you have ascertained its amount, you have simply to add ten or twenty per cent thereto, in order to know exactly how much indebtedness this country must have in order to have a safe and sound system of banking. Think for a moment how many millions this country, either the state or the national government must be in debt, in order to obtain this beautiful system of state banking. And that debt never can be less. It must increase as population increases; simply because the greater the population, the greater the amount of circulation which will be needed; and as a consequence the greater the basis of indebtedness required to build upon. You debar the country from ever discharging its debts. If this system is right and proper that we should bank upon this indebtedness of the states and of the national government, and if your legislature make a proposition to pay up the debts of Iowa, the bankers will meet them in the face and say, "If you pay up the debt of Iowa, we have nothing to bank upon, and you will lose your currency; bankruptcy will be at your door. And as the legislature is about to take means to discharge its debts, others must be created in their place, to give this beautiful system a safe and sound basis.

The PRESIDENT announced that the gentleman's fifteen minutes had expired.

Mr. TRAER. I would ask the gentleman from Dubuque, [Mr. Emerson,] to accept, as a substitute for his amendment, one which I have in my hand, and which reads as follows:

"The president and directors of every banking company, or association, incorporated under the laws of this State, shall be personally liable to stockholders, bill holders and depositors, for all frauds and defalcations perpetrated by the bank or its officers during the term of their office."

Mr. EMERSON. I would be glad to accommodate the gentleman, but I desire to have a direct vote upon my proposition. I do not know but it may be voted down, and if it is, the gentleman from Benton, [Mr. Traer,] can then submit his proposition.

The question was upon the amendment offered by Mr. Emerson.

Upon this question—

Mr. EMERSON called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, upon the amendment to the amendment, it was not agreed to; yeas 10, nays 24, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Emerson, Gibson, Gillaspy, Harris, Peters and Solomon.

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Nays—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Ells, Gray, Hall, Hollingsworth, Johnston, Marvin, Palmer. Parvin, Patterson, Price, Robinson, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Mr. PALMER, when his name was called, said: I wish to state why I shall vote against this amendment. The original provision contains a liability to the extent that I think it is necessary to go, and this amendment I consider impracticable.

The question recurred upon the amendment proposed by Mr. Parvin.

Mr. TRAER. I would ask the gentleman from Muscatine, [Mr. Parvin,] to accept as an amendment to his amendment, the proposition I read a moment since.

Mr. PARVIN. I cannot do so.

Mr. TRAER moved his proposition as a substitute for the amendment, but subsequently withdrew it.

The amendment of Mr. PARVIN was read, as follows:

"Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities."

Mr. CLARKE, of Henry. There is an important question involved here, and I do not wish any gentleman to vote under a misapprehension of this matter, as I know some of them are doing now. There is a diversity of opinion in regard to the liability to be attached to stockholders, and how long that liability should continue. Gentlemen wish to vote for a provision here that will fasten upon the stockholder a liability for all debts that may accrue while he is a stockholder; to provide that he shall never be released from such liability until the debts are paid. Some gentlemen suppose, in voting for this section, that the stockholder, the moment he transfers his stock, transfers, also, all his liability to the person who purchases his stock. Now, while I do not wish gentlemen to vote differently from what they really intend, or for a section that is to have a different effect from what they suppose it will, I would have the matter presented in such a shape that there could be no possible mistake in regard to it. I therefore move to amend the amendment by adding thereto the words, "accruing while he or she is such stockholder."

Mr. PARVIN. I find that there is a difference of opinion upon this floor, among gentlemen, in regard to the effect of the amendment I have introduced upon the liability of stockholders. My impression is, that when they transfer their stock they cease to be liable. Others think differently. Now, to obviate all difficulty, as my intention is to make them liable for whatever debts are incurred while they were stockholders, I will accept the amendment of the gentleman from Henry, [Mr. Clarke.] After the amendment, as modified, which I have offered, is adopted, I shall be willing to go for the amendment of the gentleman from Benton, [Mr. Traer,] making the officers of banks liable for frauds and losses while they are officers. I wish to confine my amendment alone to stockholders, while they are stockholders, and no longer.

Mr. MARVIN. I wish to vote understandingly and intelligibly upon this subject. It is urged, as an argument against inserting here a provision that stockholders shall be individually liable, over and above their stock, to an amount equal to their stock, that people will not take stock upon such terms. The amendment of the gentleman from Benton, [Mr. Traer,] goes to placing the whole burden upon the officers of the banks. And if they are to be made liable in this way, they will not become officers, though they may become stockholders. And what good will it do to have a bank with stockholders, and no officers? I would like to have the officers and stockholders upon the same footing—each individually liable to the amount of stock he takes.

Mr. PARVIN. I think the gentleman from Jones (Mr. Marvin) does not quite comprehend the bearing of this amendment. It only makes the stockholders liable while they are stockholders. The amendment of the gentleman from Benton (Mr. Traer) proposes to make the officers liable for frauds and misdemeanors; that is all of it, nothing more.

Mr. MARVIN. Then I would keep the penitentiary before them.

Mr. CLARKE of Johnson. I move as an amendment to the amendment of the gentleman from Muscatine (Mr. Parvin) to add the following:

"And that no person while a stockholder shall be allowed to transfer any of his personal or real property."

The question being taken upon the amendment to the amendment, it was not agreed to.

The question recurred upon the amendment proposed by Mr. Parvin, which had been modified so as to read as follows:

"Every stockholder in a banking corporation or institution shall be individually responsible to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities, accruing while he or she remains such stockholder."

Upon this question the yeas and nays had been ordered.

The question being then taken by yeas and nays, the amendment was adopted, yeas 29, nays 6, as follows:

Yeas—The President, Messrs. Clarke of Henry, Clark of Alamakee, Day, Edwards, Ells, Emerson, Gibson, Gillaspy; Gower, Gray, Harris, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely,

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Solomon, Todhunter, Traer, Wilson, Winchester and Young.

Nays—Messrs. Bunker, Clarke of Johnson, Hall, Hollingsworth, Skiff and Warren.

Liability of Bank Officers.

Mr. TRAER. I offer the following by way of addition to the section just adopted:

"The President and directors of every banking company or association incorporated under the laws of this State, shall be personally liable to stockholders, bill-holders, and depositors, for all frauds and defalcations perpetrated by the bank or its officers, during the term of their office."

Mr. SCOTT. I cannot see the propriety of this. It appears to me that the officers of the bank are now legally responsible to the creditors of the bank for all defalcations and mismanagement, without any constitutional enactment to that effect;—liable to the full extent of the amendment of the gentleman from Benton, [Mr. Traer]; I can see no reason why we should incorporate a legislative enactment in the constitution here, making that a crime which is already a crime, and making those liable to punishment who are already liable to punishment, or re-enacting that which is already enacted, and forming part and parcel of the law of every civilized country. I can see no use or propriety in the thing at all. It does not properly belong to the constitution. We did not come here to legislate upon crimes and misdemeanors: that is the province of the general assembly. It is useless to ask us to declare that a crime which common law and common sense has long since declared a crime; and to declare that a certain thing shall be punished, which long since was declared punishable. If we adopt this provision we make it no more true or certain than it now is, that an officer of one of those banking institutions is liable to punishment for non-performance of duty and malfeasance in office.

The PRESIDENT. The proposition is to make all the officers of the bank individually liable for all the defalcations and losses while they are in office.

Mr. SCOTT. I think that would be unjust in the extreme. The defalcation of one clerk would make each of the officers personally liable for non-performance of duty; and so with each and every one of the officers of that banking institution. I think that would be very unjust and improper. If I should become a member of a banking corporation or association, I do not see why I should become personally responsible for the liabilities and frauds of another. That is not in accordance with common sense or common law. I should be liable for my own neglect and non-performance of duty, and not for others; nor should others be liable for my neglect or non-performance of duty.

The question was upon the amendment offered by Mr. Traer upon this question.

Mr. TRAER called for the yeas and nays and they were ordered accordingly.

The question being then taken by yeas and nays, the amendment was rejected, yeas 13, nays 20, as follows:

Yeas—The President, Messrs. Ayres, Day, Emerson, Gillaspy, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Solomon and Traer.

Nays—Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gibson, Gower, Hall, Hollingsworth, Marvin, Price, Robinson, Scott, Seely, Todhunter, Warren, Wilson, Winchester and Young.

General Banking Security.

Mr. EDWARDS offered the following as an additional section:

"If the General Assembly shall enact a general banking law, such law shall provide for the registering and countersigning by an officer of the State of all paper created and designed to be circulated as money; and ample collateral security, readily convertible into specie, for the redemption of the same in gold and silver, shall be required, which collateral security shall be in the control of the proper officer or officers of the State."

Mr. WILSON. I hope that amendment will not be adopted, for the object the gentleman seems to have in view was amply provided for in a section which was adopted on yesterday, and I think in a better shape than the one now proposed.

Mr. EDWARDS. I was not aware that anything of the kind had been adopted. I would like to hear it read.

The section was then read as follows:

"If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of the State, of all bills, or paper credit designed to circulate as money, and require security to the the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest-paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of the depreciation of any portion of said stocks to the amount of ten per cent. upon the dollar, the bank or banks so depositing shall make up such deficiency by depositing additional stock. Said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom."

Mr. EDWARDS. I will withdraw my amendment.

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Bill-holders to be preferred creditors.

Mr. PARVIN offered the following as an additional section:

"In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors."

Mr. HALL. I have been voting against all these amendments, and shall continue to do so if this thing holds on for two weeks longer. I want to leave evidence on record here that I am of the opinion that there will be an honest man left in the State after this convention adjourns.

What are we attempting to do here? The assumption seems to be that this institution which we are establishing here, and which we have said would prove of so much benefit to the people, will prove to be more dangerous than a ferocious wild beast—a perfect pirate and robber. We must therefore hem and pen him up so that he cannot be honest except by compulsion. We are to say that the legislature shall not be allowed to do anything that may look like the exercise of any discretion in this matter. We are going far beyond that, and virtually saying that the people who are to vote upon all these laws before they can go into effect, are utterly incapable of judging whether the law is a good one or not. Now, I think these matters should be left to the legislature, and that we should not attempt to monopolize all the virtue and talent, honesty and intelligence in the State, but leave a little for those who may come after us.

Mr. CLARK, of Alamakee. I do not think our successors will find fault with us upon that score. Let us put all the safeguards around this institution that we can; and the legislature that comes after us will find as much as they will want to do. I have yet to learn that if the people of this State are honest, or if our legislators are honest, or intend to be honest, they will find fault for restrictions to prevent them from being dishonest. I never heard honest people complain because they had no chance to be dishonest. Those only who are inclined to be dishonest complain that restrictions are thrown around them to force them to be honest. What does the gentleman want? To allow the legislature an opportunity to be dishonest, if they are not to practice dishonesty? I hope we are going to have honest legislators. I believe they will be so; and if they are so, they will not complain of these restrictions. But if they should happen to be otherwise, then these restrictions will be just what we want.

I believe that in forming a constitution, we should act upon the same principle that individuals act upon: to deal with every man as though you supposed that human nature was not infallible. It is almost an universal principle in private business to deal with every man as though human nature was such that, though the man approached you in the guise of honesty, still, he might not be true. We find this to be a safe and prudent rule in our own private affairs. And shall we be unfaithful in transacting the business of the public?

I am in favor of this provision offered by the gentleman from Muscatine; [Mr. Parvin.] I believe that it is right and proper. I believe that the bill-holder of any of these institutions should have the preference over all other creditors. Banking systems are instituted for the benefit of mankind. The bills are held by the poor man, the laboring man, who works a day at hard labor, or sells a bushel of grain, in a remote part of the state, for which he receives his bill, and does not know whether the bank is solvent or not; while the other creditors, mostly if not quite all depositors, have the means of knowing what is the credit of the bank, and should not be put upon the same footing with those who are compelled to receive these bills. I am in favor of this restriction, as a very necessary one, which, if we do not pass it, will be an evidence that we have been guilty of a neglect of duty to our constituents.

Mr. PARVIN. No person could be in this convention five minutes this morning without learning that there were extremes upon this as upon other questions. The gentleman from Des Moines, [Mr. Hall] would leave everything open; would let the legislature pass the most reckless wild-cat systems of banking that the ingenuity of man could devise. The gentleman from Dubuque, [Mr. Emerson] would restrict the legislature so that we could have no banking law at all.

Now we should adopt the medium course if we can. While I am anxious to throw restrictions about this matter, I am still willing to have banking carried on legitimately, honestly and beneficially to the state. My object in offering the amendments I have offered this morning, has been to this end. There are other things which, individually, I am in favor of. But to get these extremes together we must yield up some of our individual opinions and preferences, if we would have a system of banking at all. Those who desire a banking system but would restrict it to the utmost, must give up some of their individual views. And those who would throw everything open without restriction must yield some of their peculiar notions, or we shall have no banking system at all.

I am in favor of giving the legislature the right to pass a fair, legitimate banking law, at the same time saying to the legislature—you shall not go beyond certain limits in this matter. If this be a wild animal, as some have compared this banking system to, though we do not cage him, I would put a chain upon him so that he cannot go beyond certain bounds. I would have the chain long enough to enable us to have banks, and short enough to secure the bill holder.

Mr. MARVIN. I feel disposed to give every latitude to discussion upon this question. but I believe this point has been throughly dis-

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cussed already, and I do not believe that further discussion can possibly change a mind here. I therefore call for the previ us question.

The PRESIDENT. The previous question, if sustained, would cut off all further amendment to this report.

Mr. CLARKE, of Johnson. I hope the call for the previous question will not prevail. I had the floor some time ago to offer a substitute for a portion of this report, but I yielded to others. I hope that I shall not now be prevented from offe ing my amendment.

Mr. MARVIN withdrew his call for the previous question.

The question recurred upon the amendment offered by Mr. Parvin.

Mr. SCOTT. I move as an amendment to the amendment to add the following:

"The suspension of specie payments by banking institutions shall never be permitted or sanctioned."

Mr. PARVIN. I will accept the amendment, though I think it would come in better as a separate section.

The PRESIDENT. The committee on revision can arrange that.

The question being then taken upon the amendment as modified upon a division, it was agreed to, ayes 18, noes not counted.

Banking.

Mr. SOLOMON. I move to amend the report by striking out the following:

"Sec. 4 No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

Sec. 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the voters voting for and against it at such election.

Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may also provide for the establishment of a State Bank with branches.

Sec. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills and other issues intended to circulate as money.

Sec. 8. If a general Banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof to be deposited with the State Treasurer in United States stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New-York, for the thirty days next preceding their deposit: and in case of depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks, and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, at the time of any transfer, and to whom.

Sec. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities, accruing while he or she remains such stockholder.

Sec. 10. In case of the insolvency of any banking institution, the bill holders shall have a preference over its other creditors. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

Sec. 11. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided shall ever be granted."

And to insert in lieu thereof, the following section:

"The power to issue paper money shall not be granted by this state."

So that the article will then read as follows;

"Sec. 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Sec. 2. The property of all corporations for pecuniary profit, now existing, or hereafter created, shall be subject to taxation, the same as that of individuals.

Sec. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

Sec. 4. The power to issue paper money shall not be granted to this State."

Mr. WILSON. I call for the previous question upon this motion.

Mr. CLARKE, of Jonson. I hope the previous question will not be ordered until I have had an opportunity to offer my proposed substitute. I have courteously yielded the floor to several gentlemen, and I hope the gentleman from Jefferson, [Mr. Wilson] will not treat me

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discourteously, when I have been waiting here patiently without offering any objection to proposed amendments by others.

Mr. WILSON. I have no wish or intention to be discourteous to the gentleman from Johnson, [Mr. Clarke,] but I must insist upon the previous question.

The call for the previous question was seconded.

The question was—"shall the main question now be put?"

Upon this question—

Mr. WILSON called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon ordering the main question to be put, it was not agreed to; yeas 10, nays 25, as follows:

Yeas—Messrs. Clark of Alamakee, Hall, Parvin, Robinson, Skiff, Todhunter, Traer, Wilson, Winchester and Young.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Harris, Hollingsworth, Johnston, Marvin, Palmer, Patterson, Peters, Price, Scott, Seely, Solomon and Warren.

The question recurred upon the amendment proposed by Mr. Solomon.

Mr. HALL. Will it be in order to move an indefinite postponement of this report?

Mr. PRESIDENT. Not while a motion to amend is pending.

Mr. HALL. I want to get back to the old report, and not waste time on this any more. Will a motion to lay on the table be in order?

The PRESIDENT. That motion would be in order.

Mr. HALL. Then I move to lay this report on the table, so that we can get back to the old report.

Mr. CLARK, of Alamakee. The gentleman voted to go away from the old report this morning, and I have now no desire to get back to it again.

Upon this question—

Mr. HALL called for the yeas and nays, and they were ordered accordingly.

The question being taken, by yeas and nays, upon the motion to lay upon the table, it was not agreed to; yeas 8, nays 27, as follows:

Yeas—Messrs. Clarke of Johnson, Edwards, Emerson, Gillaspy, Hall, Johnston, Price and Warren.

Nays—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Day, Ells, Gibson, Gower, Gray, Harris, Hollingsworth, Marvin, Palmer, Parvin, Patterson, Peters, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Wilson, Winchester and Young.

The question then recurred upon the amendment of Mr. Solomon.

Upon this question—

Mr. SOLOMON called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was not agreed to; yeas 4, nays 31; as follows:

Yeas—Messrs. Ayres, Emerson, Peters and Solomon.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Price, Robinson, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Mr. CLARKE, of Johnson moved to strike out the following sections of the report:

"Sec. 4. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

Sec. 6. Subject to the provisions of the foregoing sections, the General Assembly may also provide for the establishment of a State Bank with branches.

Sec. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills and other issues intended to circulate as money.

Sec. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security, to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below the r average value in the city of New York, for the thirty days next preceding their deposit, and in case of a depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

Sec. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective

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shares so held, for all its liabilities, accruing while he or she remains such stockholder.

Sec. 10. In case of the insolvency of any banking institution, the bill holders shall have a preference over its other creditors. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

Sec. 11. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted."

And insert in lieu thereof the following:

"The General Assembly shall provide by law for the creation of banking institutions; but no such law shall take effect and be in force until the same shall have been submitted to a vote of the people, and received a majority of the votes cast for and against the proposed law, at such election."

Mr. CLARKE of Johnson. I am frank to say that I do not expect, after the vote taken this morning, that this proposition will be adopted by this convention. But I feel that I shall not have discharged my duty to my constituents without at least offering it and making a few remarks upon it.

I think I do not misstate the fact, when I say that a majority of this convention were sent here for the purpose of making some provision in our fundamental law, by which the people of this State could establish banking institutions, and I shall not be disputed when I say further, that all the people expected at out hands, all that they asked of us, was that we should remove the restrictions existing in our present constitution. There was no anticipation on the part of the people that we would go to work and devise a complete banking system here, or place such restrictions in the constitution as would virtually amount to a prohibition. Believing that the article as it now stands, and for which I have offered a substitue, is virtually a prohibitory article as much so as the amendment offered by the gentleman from Mills [Mr. Solomon] I cannot consistently vote for it.

I wish to place myself right upon the record and show, whatever may be the opinion of the people, however much they may be disappointed upon this subject, that I have at least discharged my duty in good faith to the people of the State, in endeavoring to have placed in the constitution, a provision by which the people might be enabled to create banking institutions if they desired them.

Let us look at this article a moment as it now stands, and in a point of view that I desire to present to the democratic side of the house. In the first place there is in this article a provision that stocks shall be deposited with a state officer, by which the bill-holder is to be secured, which stocks shall amount to ten per cent. more than the amount of bills issued. Before a dollar of this money is put into circulation, the people of this state are to have in their hands more than an equivalent to secure the bill-holder against any failure to redeem that money. Then we have a provision that if the general assembly shall authorize the establishment of a State bank and branches, these branches shall be mutually responsible for each other's issues. In addition to that, there is another safeguard; that every stockholder in those banks shall be liable for tne debts of the bank to double the amount of their stock. And in addition to this, no bill can pass and go into effect in relation to banking, until it has been submitted to and ratified by a vote of the people. And then there is a provision by which the general assemoly, by a two-third vote, can repeal all their banking laws, and leave the parties engaged under them to the ruin that must necessarily follow.

Now what will be the effect of this article? It must be one of two things: either to prohibit banking, or make it a monopoly in this State. Let me illustrate. We have in Iowa City three banking institutions, conducted by private enterprise. There are men engaged in those banks who have been neighbors for years together; they are acquainted with each other; they know each other to be honest. The effect of this article will be this: these men will say—we know each other; we have the means to establish a bank, and we will do so under this general banking law, and no one but ourselves shall be stockholders in it. Thus they may agree to take all the stock themselves and exclude every other person from the concern. And thus if you have a bank at all, it will be under a system which constitutes a monopoly as bad in its effects, as would any system of banking under special laws.

This, it seems to me, must be the inevitable effect of this article. It will keep out of banking the man of small means, the man who has but a few hundred dollars to invest, or who is trustee for certain funds that he wishes to deposit in a place of security. It will keep out thousands of dollars from our banking institutions, and withhold it from the community. Do my democratic friends wish to make banking a monopoly, in the hands of a few men, who alone have the money and wealth to control it entirely? If they do they will most assuredly accomplish their object by voting for this article as it now stands. Now I desire no such thing, and believing that will be the effect of this, I shall be compelled to vote against the article as it now stands.

The proposition I have offered, I believe, does all that the people sent us here to do. It leaves to them the right to create banking institutions, and impose such restrictions as will guard and protect their rights I believe that I have discharged my duty when I have offered this proposition, and put myself upon record in favor of it; and I therefore ask the yeas and nays upon it.

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The yeas and nays were accordingly ordered.

Mr. GILLASPY. I will not undertake to say but what the gentleman from Johnson [Mr. Clarke,] is fully capable of representing his own constituents, and stating what they may desire and wish. But when he undertakes to tell us what our constituents desire, and what they wish and expect, if what he has said upon the subject is true, I undertake to say that he does not know anything about my constituents.

I am in favor of banks myself. I desire to see a system of banking inaugurated that shall be profitable to the bankers and acceptable to the people, if possible. There are some men in my county who are opposed to banks of any kind. But a large majority of my constituents are in favor of banking. And I undertake to say there are not ten men in my county who would be satisfied with the action of this convention if they merely removed the restriction in the old constitution without providing some safeguards and checks upon banking.

I believe we have acted unwisely about this matter. I was opposed to the creation of this special committee. We had had a standing committee which had examined the subject of incorporations and banking, and had made a report upon it. The convention spent a whole week in the consideration of that report; and to my mind, if they had continued to examine and consider the subject as they should have done, they might have passed it by this time, without any of this struggle we now see.

I shall vote against this report of the special committee. It comes in here when no one is looking for it, except a few particular gentlemen here; and it is attempted to pass it through here, with few amendments, with railroad speed. I cannot recollect, now, half the provisions of the amendments made by this special report; and since I cannot have the opportunity of having it before me, of seeing all its bearings, so far as I am capable of appreciating them, I shall vote against it, believing, as I do, that we should go back to the original report, and so amend that as to meet the wishes and desires of the people.

There is not a man in my county who could have got one hundred votes upon the broad principles of the proposition of the gentleman from Johnson, [Mr. Clarke], that of removing these restrictions entirely, and allowing the legislature to pass any kind of banking law they might choose. As it has been said this morning, if any kind of banking law is passed, men may go into the country and tell the people that it is susceptible of this construction and of that construction, and may possibly get the people to vote for it. Now, I hope the convention will go back to the original report of the standing committee on incorporations, and so amend it as to incorporate the proper restrictions and securities in it.

Mr. TRAER I would ask the gentleman from Wapello [Mr. Gillaspy], if he does not suppose that the people are about as capable of voting understandingly, upon this question of banks, as they are upon the question of taking stock in railroads?

Mr. GILLASPY. The taking stock in a railroad is a simple proposition. But this banking law is as long as the moral law, or the North Pole, with ten thousand provisions in it. And I would ask if the gentleman himself, not being a lawyer, but a mere physician, is competent to undertake to define, at the first glance, the constitutional provisions, and all the legal effects of the laws passed by the General Assembly of this State?

Mr. HARRIS demanded the previous question.

The demand for the previous question having been seconded—

The main question was ordered to be put.

The question was upon the amendment offered by Mr. Clarke, of Johnson.

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being taken, by yeas and nays, the amendment was rejected; yeas 5, nays 30, as follows:

Yeas—Messrs. Bunker, Clarke of Johnson, Hall, Skiff and Warren.

Nays—The President, Messrs. Ayres, Clark, of Alamakee, Clarke of Henry, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Solomon, Todhunter, Traer, Wilson, Winchester and Young.

Mr. EMERSON. I wish now to offer an amendment.

The PRESIDENT. No other amendments are now in order, the previous question having been ordered and sustained, which cuts off all amendments. The question is now upon adopting the report of the special committee, as amended.

The question was then taken, by yeas and nays, upon adopting the report, and it was agreed to; yeas 30, nays 5—as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clark, of Alamakee, Clarke, of Henry, Day, Edwards, Ells, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Price, Robinson, Scott, Seely, Skiff, Todhunter, Traer, Wilson, Winchester and Young.

Nays— essrs. Clarke, of Johnson, Emerson, Peters, Solomon and Warren.

Mr. CLARKE, of Henry, when his name was called, said he voted for the report under protest.

On motion of Mr. TRAER—

The report was ordered to be engrossed and read the third time.

Mr. CLARKE, of Henry. I wish to say, in explanation of the vote I gave under protest,

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that it was not in regard to any of the provisions that relate to banking, but it was in regard to the question of restricting counties in taking stock, and some other things.

Miscellaneous.

Mr. TRAER. I move that we take up the report of the committee on miscellaneous subjects.

The PRESIDENT. If there be no objection, the Convention will take up the report indicated by the gentleman from Benton, [Mr. Traer.]

No objection being made, the report was taken up.

Mr. MARVIN. I move that this report be referred to the committee of the whole, and that it be made the special order of two o'clock this afternoon.

Mr. GIBSON. I would ask the gentleman to modify his motion, that we go into committee of the whole upon this subject now. We have half an hour yet before the time for recess, which we can spend in considering this report.

Mr. MARVIN. I have no objection.

The question was then taken, and the motion was agreed to, upon a division; ayes 16, noes not counted.

Committee of the Whole.

The Convention then resolved itself into committee of the whole, (Mr. Todhunter in the chair,) on the report of the committee upon miscellaneous subjects.

The report having been read through.

The CHAIRMAN stated that it would now be read by sections for amendment.

Jurisdiction of Justices of the Peace.

Section one was then read, as follows:

"The jurisdiction of justices of the peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to any real estate may arise,) where the amount in controversy does not exceed fifty dollars, and by the consent of parties may be extend d to any amount not exceeding three hundred dollars."

Mr. SKIFF. I move to strike out, in the fifth line, the word "fifty," and insert in its place, "one hundred."

Mr. GIBSON. I move to amend by inserting "five hundred."

The CHAIRMAN. The question will be first taken upon striking out "fifty."

The question was then taken, and the motion to strike out was agreed to.

The CHAIRMAN. The question will be taken first upon filling the blank with the largest number.

Mr. CLARK, of Alamakee. I hope the motion of the gentleman from Marion, [Mr. Gibson,] will not prevail. Justices of the peace should not be allowed to have jurisdiction of so large an amount as five hundred dollars, or anything like it. They are not created to decide questions of so much importance, but to settle neighborhood difficulties, where the amount in controversy will not warrant parties to subject themselves to the expense of going to courts better qualified to settle legal questions. I would be in favor, myself, of retaining the sum named here—fifty dollars—but I have no particular objections to extending it to one hundred dollars. Even if justices of the peace were qualified, and had the requisite learning and ability, they live, as a general thing, in a neighborhood where the disputes, which they are called upon to adjust, originate. The plaintiff in a suit generally goes to a justice of the peace, states his case, not unfrequently takes the advice of the justice in the matter, and enlists his feelings in his behalf before the process is issued. Then, again, the officer who summons the jury in a jury trial, also lives in the neighborhood. He is generally appealed to, and his sympathies are excited, and thus there is a feeling enlisted on his side on the part of the court and jury that are to dispose of the matter.

If we are going to extend the amount of jurisdiction of these justices of the peace to five hundred dollars, why not strike out of the constitution that provision which creates a district court? If they are capable of deciding cases where the amount of five hundred dollars is in controversy, they are certainly qualified to decide nine-tenths of the cases that arise in the district courts.

There is many an intricate case which would arise in a justice's court under an extended jurisdiction of that kind, which would require the most nice, refined, and profound knowledge of the law. It is carrying the jurisdiction of the justice's court entirely beyond the scope they were intended to have. I am opposed to giving them this extended jurisdiction, and I hope the amendment of the gentleman from Marion, [Mr. Gibson,] will not prevail.

Mr GIBSON. I am surprised at the position which the gentleman from Alamakee [Mr. Clark,] takes upon this question. Take the position of that gentleman, and we would naturally come to the conclusion that our justices of the peace were corrupt, that they were liable to be bribed. He has even gone further. He tells you, that even a jury before a justice's court are liable to be corrupted. Would not the same principle extend to a jury in a district court? Is not a jury of a district court composed of citizens of the county? and is not a jury of a justice's court composed of citizens of a county? and where is the difference? Would there be a greater liability to corruption and bribery in a justice's court than there would be in a district court?

He says also that increasing the jurisdiction of justices of the peace would virtually do away with the practice of the district court. Not at all. We do not seek any such thing; we only

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seek to extend this jurisdiction in civil cases, and matters of debt. We do not seek to give justices of the peace the right to decide in cases, where the title to real estate is involved. How often is it the fact, that an individual holds a plain note of hand, and he is forbidden or denied the right to commence a suit upon it until the district court sits, because it amounts to a greater amount than comes within the jurisdiction of a justice of the peace. Is this right? Cases such as I have instanced are common; and the gentleman from Alamakee very well knows it. The debtors look to this point; I have heard it very often remarked by a debtor—if I can raise the sum to over one hundred dollars, then, under our form of laws, I defy the creditor to commence his suit against me before the justice of the peace. The creditor must then bring his suit in the district court, and what then? Why, my friend from Alamakee would then, perhaps, get ten, fifteen or twenty dollars to attend the case before the district court, and get a judgment against this debtor upon a plain note of hand. I do not suppose the gentleman from Alamakee is in the habit of collecting debts upon the most simple note of hand at less than five per cent; and yet he would put the creditor to this expense of going to the district court for collecting his money upon a plain note of hand. If it be a case that is complicated, if there is some doubt about it, if the individual bringing the suit thinks the justice of the peace would not be competent to try it, he is not compelled to bring it before him; but he can commence his suit in the district court. If the individual, however, to whom the debt is coming is satisfied to refer the matter to the justice, and the jury who may be called, are we to say that we will forbid it? Is it right and just to compel an individual to take a case into the district court when there is no absolute necessity for it? I think not.

It may be that the sum I have named here, five hundred dollars, is too high. It would not be to suit my own feelings, and I think there would be no trouble growing out of the extension of a jurisdiction of a justice to this amount. I assure the convention that I will not by any vote of mine go for limiting the jurisdiction of justices to suits that shall not exceed in amount fifty dollars, nor over one hundred dollars. At the least calculation, I think the jurisdiction should be extended to three hundred dollars.

If we make the office of justice of the peace an office of trust and importance, there will be a greater inducement held out to the people of a township to elect their best men to this office. If gentlemen are accustomed to having justices of the peace who are not competent to attend to these matters, they ought to select better men. It is not so in the section of country that I have the honor to represent. I would prefer rather to take a civil suit for the collection of a debt of five hundred dollars before a justice of the peace there than before the district court, because then I can appear in my own case and set up my own claim. I am not surprised that gentleman of the legal profession desire to give justices jurisdiction only in cases where the amount involved is merely nominal, for it gives them a better opportunity to make fees.

Mr. GILLASPY. I do not believe that the jurisdiction of justices should be extended to five hundred dollars. I would prefer that the sum should be two hundred dollars, and the reason for my preference is this. There are many cases where a man has a plain note of hand to the amount of one hundred dollars, and is required to bring his suit before a district court, which makes it worse for the plaintiff and certainly worse for the defendant, because the costs are greater in this court than before a justice of the peace. I would be in favor of fixing the amount at two hundred dollars, and I think it would be for the benefit of both the plaintiff and the defendant. I suppose that the same principles of law will govern in the trial of cases that involve a debt of fifty dollars, that would apply to a promisory note of one thousand dollars; and that the justices of the peace who is competent to decide questions that will arise in his court upon claims of fifty dollars would be competent to decide upon claims of five hundred or a thousand dollars. It is for the benefit of the plaintiff and defendant, that we require certain cases to be determined in a cheaper court. I am opposed to saying that the justice shall have jurisdiction in cases where the amount in controversy is five hundred dollars, but I am willing to fix the sum at two hundred dollars. This sum would cover a large majority of business transactions.

Mr. CLARK, of Alamakee. If, in the extension of the jurisdiction of justices of the peace here asked, it were confined to the collection of debts, it would perhaps be less objectionable. But the jurisdiction is general, with only two exceptions, and these are cases arising in chancery and questions where title to real estate is involved. With these two exceptions, the gentleman from Marion, [Mr. Gibson,] by his amendment proposes to raise the jurisdiction of justices from one hundred dollars to five hundred dollars, in all conceivable cases that may arise in the intricate transactions of man with his fellow-man.

So far as the allusions of the gentlemen who first addressed the committee upon the opposite side of the question to myself are concerned, I do not feel disposed to take up the time of the convention in replying to them. In the first place, I do not feel that I am governed in this respect by any pecuniary considerations that may flow from the adoption or rejection of the amendment offered by the gentleman from Marion; and in the next place, if I were thus to be governed, I would certainly wish to have the jurisdiction of justices extended to all s bjects, to have all restrictions upon their jurisdiction removed, and give them a jurisdiction co-extensive with every court in the county; with a

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right of appeal to a higher court. Instead of preventing litigation, it would increase and multiply the fees of attorneys indefinitely. But on the other hand limit their jurisdiction, keep them within the sphere within which they were intended to act, and it will curtail litigation.

The gentleman from Marion, [Mr. Gibson,] thinks that I am actuated by pecuniary motives in my opposition to the amendment he has proposed. It will not be perhaps more than just that I should pay my friend a little compliment. He says that he desires to give dignity to the office of justice of the peace, and it is very possible that he is looking to that office in his own neighborhood.

But the gentleman says that if you have a debt of one hundred dollars which you wish to collect you cannot commence a suit before a justice, but must wait until the district court opens. This does not necessarily follow. Under our present constitution, district judges of any district can make rules by which a suit may be commenced and brought to judgment in vacation; where there is no defence. You can take judgment by default in such cases, calculate the amount and assess the damages. There is no difficulty at all about this matter under our present laws.

The gentleman from Wapello, [Mr. Gillaspy] states that it will be better for the plaintiff, that the amount for which parties can sue in justices courts should be two hundred dollars, for the reason that the expenses will be less. There is no need of making expense. If the parties do not wish to litigate and the only object is to get judgment, let them take judgment by confession and by default. But on the other hand suppose there is a desire upon the one side to obtain justice, and on the other to over-reach; is it not for the best interests of both parties, that the case should be brought into a court in the first instance which is competent to render judgment, and from which there is no appeal upon the merits? I find that as far as my knowledge upon this matter extends, three fourths of the business of the district courts comes from the justice's courts in the shape of appeal suits.

The gentleman from Marion is surprised at the idea that any undue influences are brought to bear upon the justice's court, and he asks why can they not be brought to bear upon the district court in the same way? He says also, that the jurors in the district court are the jurors of the county, and he asks if jurors in justice's court are not jurors of the county also? We all know the difference between these jurors. In one case the jury is selected by the sheriff through the county, and in the other case the jury is selected by a constable in the immediate neighborhood where the trial is to take place. And in many cases this officer has his feelings enlisted upon the side of the plaintiff, when he summons his jury. I do not mean to be understood that justices of the peace and juries are corrupted, or that they are dishonest; but the results I have named will follow very often from the very nature of things. Men cannot avoid taking sides in a controversy, either one way or the other. A man cannot see a fight between two brute beasts without having his feeling enlisted upon the one side or the other. These feelings are honorable to human nature. They were created by the same Being that created him, for good and wise purposes. The difficulty is that a justice of the peace, living in the very neighborhood where difficulties arise, is apt in a good many cases to have his mind prejudiced either one way or the other, and for this reason I do not want his jurisdiction extended to cases where a large amount is involved. I want it confined to minor controversies between man and man.

Mr. MARVIN. I do not think it is necessary to spend a great deal of time upon this question. Every member here has doubtless made up his mind how he will vote upon it. One great objection to extending the jurisdiction of justices to cases where the amount involved is five hundred dollars is, that it will make business for lawyers, and for this reason I would limit their jurisdiction to cases where only a small amount is involved. I am willing to give them jurisdiction in cases involving one hundred dollars.

Mr. GOWER. It so happens that I have had some experience upon this subject. I have been called upon to serve as justice of the peace for about seventeen years, and I have served where the jurisdiction has ranged from twenty to one hundred dollars. My observation leads me to believe, that the amount, one hundred dollars, now established in our code is the most convenient sum to be fixed as the amount over which the justice shall have jurisdiction.

Mr. BUNKER. I will simply give what I conceive to be the reason that influenced the committee in making their report. In cases of litigation before justices of the peace there is generally some little feeling mixed up with the matter in dispute. The constable, or officer of the court, is very apt to be influenced by this feeling, without being aware of it; and he is liable to let that feeling manifest itself in summoning his jury. We proposed, in committee, to limit the amount of the sums in controversy over which justices should have jurisdiction to fifty dollars. So far as I am acquainted there is not one case in ten, in which the amount of property in controversy exceeds fifty dollars, where a decision is made in a justice's court, that an appeal is not taken to the district court, and you have thus the double expense of a trial before a justice of the peace and before a district court. This was one important reason which influenced the committee in reporting as they have.

Mr. GIBSON. I would say to my friend from Alamakee, [Mr. Clark,] if he intends to make me a justice of the peace, I would take it as a great favor, if he would vote for the proposition I have made, because, if I were a justice of the peace, I should want a jurisdiction of five hundred dollars.

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The question was then taken upon Mr. Gibson's motion to fill the blank with five hundred dollars, and it was not agreed to.

Mr. GILLASPY. I move to fill the blank with two hundred dollars.

The question was taken, and the motion was not agreed to.

The question then recurred upon the motion to fill the blank with one hundred dollars.

Mr. GIBSON. One hundred dollars is a very inconvenient sum to be settled here as the amount. I think it ought to be a little over that amount, say one hundred and twenty-five dollars—for that amount will a little more than cover the principal and interest where the note is for one hundred dollars.

The question was then taken on filling the blank with one hundred and twenty-five dollars, and it was not agreed to.

The CHAIRMAN. The question now recurs on filling the blank with one hundred dollars.

The question was taken, and the motion to fill the blank with one hundred dollars was agreed to.

On motion—

The Committee then rose.

In Convention.

The PRESIDENT having resumed the Chair,

The CHAIRMAN reported that the Committee of the Whole had had under consideration the report referred to them, had made some progress therein, and instructed him to ask leave to sit again.

The report of the committee was received, and leave granted accordingly.

On motion—

The Convention then took a recess until 2 o'clock, P. M.

EVENING SESSION.

The Convention met at 2 o'clock, P. M., and was called to order by the President.

The Convention then resumed, in Committee of the Whole, (Mr. Todhunter in the Chair,) the consideration of the report of the committee on miscellaneous subjects.

The CHAIRMAN. The first section of the report is still open for amendment.

Jurisdiction of Justices of the Peace.

Mr. GIBSON. I move to strike out "three," and insert in its place, "five," so that the section will then read:

"The jurisdiction of justices of the peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to any real estate may arise), where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding *five* hundred dollars."

The question was then taken, and the amendment was not agreed to.

No other amendments being offered to this section—

Size of Counties.

Section two was then read as follows:

"No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that amount; *Provided*, however, that the county of Worth, and those west of it, on the Minnesota line, may be organized without additional territory."

Mr. CLARKE, of Johnson. As the chairman of the committee on miscellaneous subjects [Mr. Bunker] is absent, I will state the reason for making this proviso here. The section, as it now stands, is the section in the old constitution upon this subject, with the addition of the proviso, which is rendered necessary from the fact, that upon a late survey of the boundary of this State upon the Minnesota line, it was found that the county of Worth, and the counties west of it, contain less territory than is required to make them constitutional counties. Hence the reason for offering this proviso, so that these counties might be organized with their present territory.

Mr. SCOTT. Before the question is taken upon the adoption of this section I wish the gentleman to take into consideration the propriety of leaving out this section entirely. There is one reason why I believe we might safely leave it out, and it is this. There are some counties forming districts in which there are large cities, as is the case with Dubuque county. The county of Dubuque is not large, but the city is, and is growing rapidly, and the strength of the city exceeds that of the county. The city overshadows the county in the appropriation of the funds of the county. It is the ruling power and can appropriate the funds of the county to whatever purpose it may see fit. There are quite a number of other counties in which there are large cities. The taxes in Dubuque county are larger than in any of the other north-eastern counties, several mills on the dollar more. There is no good reason why the taxes in farming districts in Dubuque county should be larger than those of Delaware or Clayton county. The city of Dubuque is a city of sufficient size to conduct properly a separate organization. As a city with its immediate suburbs, it should have, in my opinion, an organization separate and distinct from the farming or rural districts, that are now comprised in the county of Dubuque. And those farming

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districts should have a county of their own, and have their own municipal regulations, so as not to be overshadowed by the vote of the city. We have a good many precedents of this character in Eastern cities, which are separated and divided from the farming or rural districts.

There are many cases within the knowledge of all the gentlemen here—there are certainly within my own knowledge—where the influence of the city over the farming districts connected with it by the same county organization is felt in the shape of burdensome taxation. There is no just and good reason why this should be the case. The taxation in Dubuque county as near as I can recollect—and the gentleman from that city can correct me if I am wrong—is something like fifteen mills on the dollar, whereas the taxation in Delaware and Clayton counties is something like seven or eight mills on the dollar. I claim that if the farming districts now connected with the county of Dubuque were separated from it, and had a separate county organization of their own, their taxes would not exceed seven or eight mills on the dollar.

I have been informed that a portion of the funds belonging to that county have been appropriated by the county judge in building a bridge from Dubuque over to the island. This appropriation may be considered just and proper by the city of Dubuque, but the people in the farming districts do not so consider it. It is true the county judge may think it is right to make an appropriation for bridge purposes in any portion of the county. But if the taxation should become burdensome, I believe that in this case it would be just and proper for the farming districts to sever from the city and let each have its own municipality; let the city take care of itself, and have its own incorporated boundaries, and its own county limits and organization, and let the farming districts take care of themselves and have their county organization, too. I believe if gentlemen will take this view of the matter, they will see no good reason why there should not be, under wholesome restrictions, counties formed of districts containing less than four hundred and thirty-two square miles. It may work against the interest of those gentlemen who represent counties that are immediately connected with cities; but it will certainly not work against the formation of the rural portions of these counties into county organizations of their own. I think gentlemen can see a very plain reason why it is no more for the interest of those living in the western side of Dubuque county to build a bridge from the city of Dubuque over to the island, than it is for those living in Delaware county. In fact there are many there who are not interested as much as those who live in Delaware county. It is for the interest of all who live in that section, but it is more immediately for the interest of those who live in the city, as the building of the bridge will be a great advantage to the city.

The people in my country are about equally divided in regard to the question whether the restriction in regard to county limits should be taken away entirely. Some believe that it should be taken off entirely, upon the ground that the individuals resident within the counties know best how large the limits of their counties ought to be; and that those who are to support a county organization are certainly the best judges in regard to this matter. If there are taxes to be levied for putting up public buildings, they are the persons who are to bear the burthen. It is claimed, therefore, that they should be entitled to say what the county limits should be. Others, again, take the opposite ground, and claim that there should be a restriction in this matter. I do not wish to take sides with either of these classes.

One thing is true, that there are many of our counties that are too large. Another thing is true, that if many of the county lines were established by natural barriers and not by the laws, the counties would be better adapted to meet and accommodate the wants of the people than they are now. The county which I represent has a river running through it, which is bordered on either side by high bluffs, that form a natural barrier between the two portions of the county; and this is the case in several other counties of the State.

If the restriction with regard to the limits of counties were taken off, it might lead to a reduction of their size in many cases, and certainly they might, by taking natural barriers as the boundary line, be formed in a better shape than that which they have now. It might possibly lead to a reduction of the size of counties so that they would be entirely too small for practical purposes. I have no doubt, however, if the restriction were taken off, that the thing would soon regulate itself.

When cities and farming districts are connected together under the same organization, they are apt to be divided in feeling; and there grows up very often a strife and rivalry between them. If the city is large it will overshadow the country districts; and if the country influence is the strongest it will overshadow the city. They should be disconnected from each other in my opinion, where it is practicable, for they have not the same identity of interest and feeling.

I move to amend the section by inserting after the words "four hundred and thirty-two square miles," the following, "except in cases when they include cities containing five thousand inhabitants," so that the section will then read:

"No new county shall be hereafter created containing less than four hundred and thirty-two square miles, except in cases when they include cities containing five thousand inhabitants; nor shall the territory of any organized county be reduced below that amount. *Provided*, however, that the county of Worth, and those west

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of it, on the Minnesota line, may be organized without additional territory."

Mr. EMERSON. I certainly feel deeply gratified at the interest which my friend from Clayton, [Mr. Scott,] has taken in the city and county of Dubuque. I am aware that it is very inefficiently represented upon this floor, and I am glad to have my friend take up the matter and assist me. But I must say that I have no knowledge of the difficulties existing in the county of Dubuque of which the gentleman speaks. I hope the convention, so far as Dubuque is concerned, will give themselves no trouble about any difficulties which the gentleman alleges to exist there.

Mr. SCOTT. I had no particular motive in referring to Dubuque, but I merely referred to that county to illustrate the general principle which I laid down in my argument upon this question of limiting the size of counties. I do not say that Dubuque is worse in this respect than other counties in which there are cities.

Mr. SKIFF. I endeavored to obtain the floor before, for the purpose of calling up this same subject, in obedience to instructions I have received from the county I represent. I will state to the convention that a respectable portion of the county I represent are in favor of having no restriction at all upon the limits of counties. Such, however, are not my views, and I am in favor of the section proposed here, and I hope to see it carried.

Mr. GIBSON. I would inquire of the gentleman from Clayton, [Mr. Scott,] which side of this question he takes. Do I understand the gentleman to say that he is instructed to favor both sides? [Laughter.]

Mr. SCOTT. I hope there may be a perfect understanding between the gentleman from Marion, [Mr. Gibson,] and myself in regard to this question. I will wait until the discussion of the question has fully elicited the expression of the convention upon the question, and perhaps with the light which I shall receive from the remarks of the gentleman from Marion, I may then be enabled to make up my mind how to vote. I do not know which portion of my constituency I ought to represent. I wish it to be understood that I do not take up the cudgels in favor of either side. I do not believe it my duty to do so, bu· I will state the wants and wishes of each, and gentlemen can take such view of the question as they may see fit.

Mr. HALL. I understand you then to be on the fence.

Mr. SCOTT. Most emphatically. (Laughter.]

The question was then taken, and the amendment offered by Mr. Scott was rejected.

Mr. CLARKE, of Johnson. A portion of my district are somewhat interested in this question. I am like some other gentlemen, in rather a peculiar position. I move to strike out this second section. I make this motion because a portion of my constituents desire that it should be left to the legislature to regulate the size of counties. In order that I may represent them here. and do justice to my own position, I make this motion.

Mr. BUNKER. I hope the section will not be stricken out. I believe that striking out this section would only tend to benefit parties interested in getting up new counties, and building up county seats for their own advantage.

Mr. CLARKE, of Henry. It is very important that we should have a provision of this character in our constitution. If there are cases where the limits proposed here would work a hardship, we might amend the section, so as to provide that the limits of counties should be smaller. I am decidedly opposed to striking out this section, and leave this matter to the legislature, where questions in regard to the size of counties would be continually coming up, when there was some little dissatisfaction expressed in regard to their location. If gentlemen will look at the map of the State, they will be satisfied if we leave this matter to the legislature, that questions of this kind would be continually springing up in counties where the county seat is upon one side of the county, and where speculators will want to establish a new one for their own benefit. In order to guard against this thing, I think that we ought to retain this section.

The question was then taken upon the motion to strike out the section, and it was not agreed to.

There being no farther amendments offered to the second section—

State Boundaries.

Section three was then read as follows:

"The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly."

There being no amendments offered to this section—

Oath of Officers.

Section four was then read as follows:

"Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office."

There being no amendments offered to this section—

Elections to fill Vacancies.

Section five was then read as follows:

"In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term, and no longer, unless re-elected; and all persons appointed to

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fill vacancies in office, shall hold until the next general election only."

Mr. CLARKE, of Henry. I offer the following to come in as an addition to the section:

"And until their successors are elected and qualified."

So that the section would then read—

"In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term, and no longer, unless re-elected; and all persons appointed to fill vacancies in office shall hold until the next general election only, and until their successors are elected and qualified."

The question was then taken upon the amendment offered by Mr. Clarke, of Henry, and it was agreed to.

No other amendment being offered to this section—

Location of State University.

Section six was then read as follows:

"The State University shall consist of a single institution, and be permanently located at Iowa City. The present State Capitol, with such improvements and additions as may be provided for by law, shall be occupied by the State University, when not used by the State for other purposes."

Mr. WINCHESTER. I move that this section be stricken out. My object in making the motion is this: I do not think that the convention should have any thing to do with local matters, or local institutions. If we adopt this provision, it will be considered as a precedent, and we may then go on and provide for the location of every charitable institution in the State. I think the least we have to do with these matters the better, and the proper course, in my opinion, would be to refer all such questions to the action of the legislature.

Mr. JOHNSTON. I am in favor of striking out this section, but for a different reason from that suggested by the gentleman from Hardin, [Mr. Winchester.] I think the most appropriate place for the incorporation of this provision into the constitution would be to append it as an additional section to the a ticle on education and school lands. By voting to strike out this section, I do not wish to indicate any opposition to the location of the University at Iowa City, or that I am opposed to the idea of its being permanently located by the convention.

The question was then taken, and the motion to strike out the section was agreed to.

Location of Lands by the State.

The seventh section was then read as follows:

"The General Assembly shall not locate any of the public lands, which have been, or which may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant, so exempted, shall not exceed three hundred and twenty acres."

Mr. PRICE. I offer the following as a substitute:

"The General Assembly shall not, without the consent of the occupant, locate any public lands which have been or may be hereafter granted by Congress to this State upon lands actually settled, provided the claim of such occupant so exempted shall not exceed three hundred and twenty acres."

The question was taken, and the substitute was not agreed to, upon a division; ayes 10, noes 11.

Mr. HALL. I move to strike out the section.

Mr. CLARKE of Johnson. This is substantially the provision contained in the present constitution upon this subject. It is necessary to have such a provision as this in order to protect the rights of settlers, in case any other grant of lands should be made by Congress. That is the only reason for adopting it; and the Committee on Miscellaneous Subjects, upon reflection, thought it best to make this provision. It can do no harm, and it may do good; it may protect settlers, if there should be any grant of lands made by Congress, in addition to those already made.

Mr. HALL. I do not see the necessity for this provision. Under the present liberal preemption laws, there is no danger to the settlers, which it is necessary to guard against by the adoption of such a provision as this. I am unwilling to put the State in a position in which I would not place an individual, and therefore I move to strike out this section.

The question was taken upon the motion to strike out the section, and it was agreed to, upon a division, ayes 13, noes 11.

Laws submitted to the People.

Mr. GRAY. I offer the following as an additional section:

"No law which may be passed by the General Assembly, and which may be referred to a vote of the electors of this State, and the taking of effect of which may be made dependent upon such vote, shall, in consequence of such reference, be held invalid, or in violation of this constitution; and all such additional enactments

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shall, upon their approval by a majority of the votes cast at such election, take effect and be in force agreeably to their several provisions."

Mr. HALL. We have already vested the legislative power of this State in a legislature. This leaves it either with the legislature or with the people, just as the legislature may find convenient. They can get rid of all responsibility and throw it upon their constituents at pleasure. I do not believe that such a provision is called for, and I do not think it would be wise to incorporate it into the constitution.

Mr. SKIFF. If a section were offered here as an amendment, which would provide that all laws which are referred to the people in this way, should be invalid and have no effect at all, I would vote for it, because I do not like this kind of legislation at all. I would make only one exception of laws to be referred to the people, and that is the laws in relation to banking.

Mr. CLARKE, of Henry. The gentleman has an exception, it seems, and he wants it considered. I ask him to extend, in a spirit of charity, the same right to others, who have other measures that they want excepted. There are a good many who want to leave this question of submitting the liquor law to the people, free from all constitutional questions. It seems to be a favorite method in different States of the Union, and it has been in this State, that of submitting questions to the people. You cannot deny but what a majority of the people of this State prefer that method of settling the liquor law. It is a question which ought to be kept out of politics, and upon which every man should have the right to speak and act, without being called upon to vote for candidates for office, who may be nominated by this or that party. If you allow the people to vote upon this question, you get the voice of the people upon the law as it is passed.

There is no danger of the Legislature sending all laws to the people. If the gentlemen will point out another instance, except that of submitting the liquor question, where they have done this thing, I should think there was some force in their objections.

Mr. MARVIN. I am sorry to differ with my friends, but I am absolutely opposed to this mode of legislation in every place except where we have named it. In every new question that comes up in the Legislature, members might think they would endanger their popularity by the action they would take in regard to it, and therefore they would be in favor of submitting it to the people and thus shirk the responsibility of voting upon it themselves. They would then have no popularity to lose by so doing. I am opposed to this mode of legislating. I think we shall experience the bad effects of last winter's legislation, in the law which was passed, requiring counties to choose between the two laws, in relation to the selling of liquor. Probably neither of the laws will be executed under that system. If the Legislature had just come right out and enacted the law as it came before them, it might have done some good. It does seem to me that the members of the Legislature, who have taken an oath to do their duty faithfully, and to investigate all subjects that come before them in a proper manner, are better qualified than nine-tenths of the people, who have not directed their attention particularly to this subject; at all events, not sufficiently to give them a proper idea of it.

Mr. HALL. I rise to a question of jurisdiction. I thought the gentleman from Henry, [Mr Clarke] and myself made a treaty the other day. I hope he will keep his side and I will keep mine. I intend to hold him to the barga n. He said he would be satisfied with the negroes and I said I would be satisfied with the whiskey. [Laughter.

So far as this question was concerned, I should have supposed the experience of the past would be amply sufficient. We have had one law submitted to the people, which fell still-born; and it has never been enforced, except to gratify feelings of spite, and only in particular localities. It is a dead letter upon the statute book, and the legislature have been glad to retreat from it. I do not wish to discuss these matters here at all. I think the legislature is the proper body to pass laws upon this subject.

Mr. CLARKE, of Henry. The gentleman from Des Moines, [Mr. Hall] reminds me of an arrangement we made the other day. I always make it a point to be faithful to my engagements, and I always mean to be more faithful to them when I do not give my bond, than when I do. I believe I can appeal to the convention to confirm the fact, that the gentleman since he made that engagement has occupied all his time nearly in looking after the negroes, and now I claim my right to be looking out after the whiskey. [Laughter.] When I got up here to speak in behalf of this amendment, I had one thing in view, and one only. I do not know that there are any other questions that will be likely to come up, where the law will be left to the people. I was somewhat astonished at the remarks from the gentleman from Jones, [Mr. Marvin.] I suppose he knows the history of legislation upon these matters, and is probably better acquainted with the way these things are arranged than I am. As I understand it, they are managed in this way. The legislature meet and discuss a liquor bill; they soon divide into two or three parties, all urging, as they say, what their constituents want. Some will be claiming that a law upon this subject will effect the rights of individuals, and that it is unconstitutional in this and that respect. They finally effect a compromise by agreeing to leave the law, when it shall be passed in all its provisions, to be voted upon by the people. That is the way these compromises have been effected. It is not so much because the legislature are afraid to take the responsibility themselves, but it is because they are in doubt as to what the

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people really want, and whether they are really prepared for such a law.

It has been often used as an argument upon this subject, that the public mind is not yet prepared for the passage of such a bill. A member will get up and say, "I do not pretend to defend the manufacture, use, and vending of this poison," and put himself upon the record in that way, and then turn around and say, "my constituents do not want such a law." The only answer you can make to such arguments as this is, let us leave it to the people to say whether they will have it or not.

One of two things are absolutely necessary in order to get at the will of the people upon this subject. You are compelled either to elect men upon that issue, which is a most obnoxious thing, or resort to some such operation as this to get the law before the people. In order to settle this question, I am in favor of this provision, that our legislature may hereafter make such liquor laws as they see fit, and send them down to the people to be voted upon.

Mr. CLARKE of Johnson. I regard this as a very serious question, for to my mind the provision here offered changes the whole character of our representative government. Our general assembly is composed of members representing certain districts, and the basis of representation is population. In that way every vote given in the general assembly is the vote of a specific portion of the people; and every law passed is passed by the voice of every citizen of the State, and it is passed by an equality of votes, no one section having an advantage over the other. If your apportiontment of members is correctly made, as the constitution requires, every citizen has an equal voice in the passage of the laws.

If this provision is adopted, many a local question may arise, in which only one portion of the State may have an interest. They may desire a law in relation to that subject suitable to their own peculiar views; and being the only parties interested, they would have the right in some measure, to have the law passed. This local law might be submitted to the people of of the State, a majority of whom might impose upon the section of the State interested in this particular, local measure, something that they did not want. Take the case of the Des Moines River Improvement. It is well known that there is a diversity of opinion in this state as to the value of that improvement. There is also a diversity of opinion as to the character and management of that improvement. Suppose a bill is introduced into the legislature abolishing that work, or regulating its management. Heretofore it has been very generally the practice to allow members from the Des Moines valley to determine what they wanted in relation to it; and whatever they have agreed upon, has been passed. Suppose that somebody from some other portion of the state not particularly interested in this work, presents a proposition changing the character of this work and its management, and that the general assembly, with a view of shifting the responsibility from themselves, submit this question to a vote of the people. The people of the whole state vote upon it, and the people of that portion of the state, who are directly interested in this work, and desire a peculiar kind of improvement, have something imposed upon them which they do not want. And this same result may follow upon all subjects of legislation. If this rule may be applied to one case, it may also be applied to another. This seems to me to be changing the character of our representative form of government, and destroying the very basis upon which the law-making power depends. I do trust that before taking a step so serious as this, in my opinion, would be, this subject will recive full and ample consideration at the hands of the convention.

If everything is to be submitted to the people, and if nothing is to be determined unless we submit it to their vote, it seems to me we had better abolish the law-making power entirely, and provide that the government of Iowa shall be a mass democracy, and provide for calling the people together *en masse*, to determine all questions affecting their interests. I fancy I can see great danger to public and local interests in the adoption of such a provision as this now under consideration, and I hope that it will not be agreed to.

Mr. SKIFF offered the following substitute:

"No law which may hereafter be passed by the Legislature and approved by the Governor, shall be submitted to the people to be voted upon previous to its taking effect, with the exception of laws in relation to banking."

Mr. GRAY. I will remind the gentleman that he is mistaken in supposing that banking is the only case in which we have required a law to be submitted to the people. In the article upon State debts, section four, he will find the same provision.

Mr. SKIFF. I will accept that as an amendment. I do not want this wholesale legislation by the people. I will call attention to a matter of legislation which went before the people and which created a great deal of mischief in the State—our present hog law. It created a great deal of mischief from the very fact that it was a law to take effect by a vote of the people. The people can have the law or reject it. In one county it may be in force, while in the adjoining county it may be otherwise. Upon the line between two such counties, it is always a source of difficulty upon that side of the line where it is in force. The law is not equal in its operations. If we have a law uniform all over the State, whether it is one way or the other, everybody in the State knows exactly what the law is. That very hog law has caused about as much difficulty as any I know of in the State. One county votes for it and another against it; and the consequence is that if you enforce it in one

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county, it forces the people in the adjoining county to conform to its regulations.

So it is with regard to the license law—the liquor law—and all kinds of laws which are submitted to the people for the different counties to adopt them or not at their pleasure. And this makes the legislature no more than a body of men to assemble here and give the people an opportunity to vote upon different questions. The people might just as well meet in their primary capacity as they did in old times, without any representatives at all; and pass laws by the vote of the mass of the people without any legislation whatever. I want the people to come together and pass the laws. I here let them be approved and take effect upon a certain day, so that they shall be uniform.

This matter has been mooted in other States of the Union. It has grown up within a few years past. As far as I am aware the best lawyers all over the Union are opposed to this kind of legislation. They doubt very much its constitutionality. In States where their constitutions contain similar provisions to that in our present constitution, it has been declared to be unconstitutional to submit these matters to the people. I hope this constitutional convention will either approve or disapprove it; that we will say that the legislature may submit every law to the people, or that they shall submit no law, with certain exceptions. In order that the matter may be definitely settled in this State, I offer this resolution, and I accept the amendment to include laws in relation to State debts, and will accept any others embraced in the constitution.

Mr. WILSON. I will call the attention of the gentleman from Jasper, [Mr. Skiff,] to the thirtieth section of the article on the legislative department, where he will find this provision:

"In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it."

Mr. SKIFF. I will make my exception general—"except as provided in this constitution."

Mr. HALL. In the cases cited there is no necessity of having a vote of the people of the locality at all. These matters are entrusted to the legislature, and if they do not wish to perform their duties, and we will give them the right, they will turn it over to the people. That is a principle I am opposed to; and I think it should be out of the power of the legislature thus to escape the responsibility of their acts.

Mr. GOWER. I cannot think there is any harm to arise from submitting these questions to the people. I have seen in this State considerable voting upon hog laws, liquor laws, &c., and the people seem to enjoy it well enough. I do not believe they are opposed to it. On the contrary I believe that if we should say to them that they should not have the privilege, they would dislike it very much. It seems to me that we would better allow them this privilege. I think that is the most prudent course. I see no necessity for any prohibitions. The legislature will not be likely to extend the system of voting by the people beyond what the occasion calls for, or so far as to be troublesome to the people. For my part, I am opposed to the amendment.

Mr. HARRIS. I do not know that any great difficulty has occurred from the submitting of questions heretofore; and I see no great difficulty which is likely to occur from allowing this privilege to remain in the constitution. So far as the liquor question is concerned, I consider it pretty well settled now. And if there are any other vexed questions to be settled, I think the better way is to settle them as fast as we can without making any changes in the constitution to settle them. I do not believe we came here to settle any such question; and I should prefer that the matter should be left as it is under our present constitution.

Mr. SKIFF. I will modify my amendment so as to read as follows:

"No law which may hereafter be passed by the legislature and approved by the governor, shall be submitted to the people to be voted upon previous to its taking effect; subject to the provisions of the foregoing constitution."

Mr. TODHUNTER. Is an amendment to that in order?

The PRESIDENT. No amendment of this substitute is in order; it is already an amendment to an amendment.

The question was then taken upon the amendment of Mr. Skiff, and it was agreed to; ayes 17, noes 8.

Mr. CLARKE, of Henry. I now move to amend that substitute by adding:

"Except laws for the suppression of intemperance, and regulating or prohibiting the manufactrue and sale of intoxicating drinks."

The amendment was rejected.

Mr. PARVIN. The question now, I think, is upon the adoption of the substitute offered by the gentleman from Jasper, [Mr. Skiff.]

Mr. HALL. I think not. That has been acted upon.

Mr. PARVIN. The gentleman from Linn, [Mr. Gray,] offered an additional section. To that, the gentleman from Jasper, [Mr. Skiff,] offered a substitute. That substitute was adopted in lieu of the additional section; but the question upon the adoption of that substitute has certainly not yet been taken.

The question was stated to be upon the adoption of the additional section offered by Mr. Gray, as amended by the substitution of that offered by Mr. Skiff.

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The question being then taken, the section as agreed to; ayes 18, noes not counted.

Time of Elections.

Mr. ROBINSON moved to add the following:

"Judges of the different courts, members of Congress, and state, county and township officers, shall be elected at the time and place of the election of members of the General Assembly."

Mr. SKIFF. I believe the committee on the schedule have that under consideration.

Mr. WILSON. I will state that the committee on the schedule are at work on that very proposition in relation to elections; and I think as would be better to let the whole matter go to that committee.

Mr. PALMER. It appears to me that, if such a section is to be adopted, here is the proper place for it, and not the schedule. The schedule is intended to contain things which may be dispensed with hereafter. When the organization under the new Constitution is complete, the schedule is supposed to be no longer in force.

Mr. WILSON. I think, if the gentleman will look into the schedules of the different States, he will find something in all of them which continues to exist after the Constitution has gone into full operation. And, inasmuch as the committee on the schedule have this very matter under consideration, it seems to me better to leave the whole matter to that committee to determine. They have been investigating various forms, and endeavoring to arrive at something which will be satisfactory to the Convention. Whatever that committee may agree upon, if it is sanctioned by the Convention, will become as much a law of the land as if it were placed in any other part of the Constitution. It will have just as much effect if placed in the schedule as if it were placed any where else.

Mr. CLARKE, of Johnson. I will state to the gentleman that, in the article on the judicial department, we have already provided that the election of judges of the supreme and district courts shall be at the same time with the general election. That portion of the amendment, therefore, may be stricken out.

Mr. HALL. There may be other judges and other courts established. We may have county judges; and want something to control those elections.

The question being then taken, the amendment was rejected; ayes 7, noes 10.

City and County Indebtedness.

Mr. CLARKE, of Henry offered the following amendment:

"No county, or other political or municipal corporation, shall hereafter issue its bonds or other evidences of debt, or loan its credit, or become directly or indirectly liable as surety, or in any other manner become indebted, to an amount in the aggr egate, exceeding six per centum on the value of the taxable property within such county or corporation—to be ascertained by the last state and county tax lists."

Mr. PETERS moved to amend by inserting "ten," instead of "six," so that the indebtedness should not exceed ten per cent. on the value of the taxable property.

Mr. CLARKE, of Johnson. We have discussed this matter several times, and have come to the conclusion that we cannot get what we want. I move to lay the amendment upon the table.

Mr. PARVIN. I do not intend to discuss that question—

Mr. CLARKE, of Johnson. The motion to lay upon the table is not debatable.

Mr. YOUNG. The committee of the whole have no table.

Mr. PARVIN. I took it for granted that the motion was not made seriously. This is the fourth time the question has been brought before us; first in committee of the whole upon the article on incorporations; second, in Convention upon the same subject, and once since that; so this is the fourth time, at least, that we have had, substantially, this same proposition before us. I am tired of it. Gentlemen must suppose that the Convention did not know what they were doing, or that they have changed their minds. For my part, I knew just what I was doing, and I am of the same mind yet.

Mr. GILLASPY. I move to amend by saying that it shall be the special order for nine o'clock on each morning until the Convention shall adjourn; and I call for the yeas and nays upon it. (Laughter.) It has been before the gentlemen several times, and if we do not understand it yet, I think the only way in which we can understand it is by having it brought up every morning until we adjourn.

Mr. WINCHESTER. I move to add, that if any member refuses to take part in the discussion of the question, he shall be fined one dollar.

The question was stated to be upon Mr. Peters amendment.

Mr. CLARKE, of Johnson. If that is debatable, I hope some gentleman will be so kind as to enlighten the convention with regard to it.

Mr. PETERS. Well, Mr. Chairman, I have a few words to say upon it, notwithstanding the fact that it has been before the convention several times. It is urged here that we should let this remain where the old constitution left it, from the fact that the attorneys throughout the State are in extreme doubt whether any county in the State had the power to loan its credit to the extent of a dollar. I apprehend that so long as the counties of this State are loaning their credit, and this doubt exists in the minds of any person, or considerable number of persons, and especially in the market where these bonds are to be sold, the State of Iowa, and every county

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in the State, must suffer in the sale of these bonds just to the extent that that doubt is entertained in that market by the persons who buy the bonds. If it is a matter of doubt, if it is a question, whether the counties have the right to take stock at all, I think that the interests of the State demand that we should settle the question one way or the other. I believe that we ought to take the responsibility of saying whether the counties shall or shall not have this power.

Mr. CLARKE, of Henry. There is a great misapprehension upon the part of gentlemen, if they really think they have here got the same coon-skin. This is not the same thing. This proposition has not been before the convention at all. The proposition which was before the body, and which was discussed here, and to which amendments were offered, was in a different shape. It was that no political or municipal corporation shall become a stock-holder in any banking corporation, directly or indirectly; nor in any other corporation or corporations to an amount exceeding, at one time, two hundred thousand dollars, &c. The section that I have offered does not say anything about becoming a stock-holder. It merely limits the indebtedness of a county or corporation. And if gentlemen acted wisely in battling to bring down the indebtedness of the State to five hundred thousand dollars, or two hundred and fifty thousand dollars—and some of them wanted to bring it down to nothing at all, or in other words, to refuse to allow the State to incur any debt at all, there is equal reason for fixing a limit beyond which the counties shall not incur indebtedness. This proposition leaves entirely open the question whether the counties shall hold stock in corporations or not. It is simply a matter of ridicule to rise here, and speak of it as having been so often before the convention. While some gentlemen, some of the sages of our assembly, have come up here, and deplored this state of things, and prophesied that it would bring great evil upon the State, and were entirely opposed to the principle of the counties, or other political corporations, becoming indebted for large amounts for internal improvements, or any other purposes, yet these same persons, when the proposition is made to limit the indebtedness of these corporations, treat it as a matter of ridicule.

I have offered this in good faith, knowing that it is a distinct proposition, entirely different from anything which has been before the convention. It leaves open the question of taking stock, and the question of internal improvements. It merely decides the question that the counties or other municipal corporations shall not become indebted for internal improvements, or for any cause whatever, to an amount exceeding six, eight, or ten per cent. upon the taxable property in that county. Now I know that if the majority of this body could only agree upon the amount of the restriction, they would be in favor of some restriction. I know it from what has been said to me upon every side here. It cannot be denied, as has already been remarked, that some restriction would make our present county bonds worth more in the market than they now are. It would be an advantage to us, to let capitalists abroad know that these counties will not plunge into debt deeper and deeper until obliged to repudiate. Give them this guaranty that there is a limit of five, six, seven, eight, or even ten per cent. upon the amount of taxable property in the county, and it would make our county bonds worth more in the market the very moment this is known. But leave it entirely open, and when it is known that the county can vote an appropriation over and over again, it will depress the value of our bonds. As the gentleman from Des Moines remarked, when it was heard that Henry county had voted one hundred thousand dollars more, it affected the value of these bonds in the market instantly. So it will be every where, unless we put in some restriction. I think it is the part of wisdom, for our own sakes, to put in this restriction.

Mr. GILLASPY. I have an amendment which will cover the whole case, and I think it will satisfy the convention, to add:

"And that the gentleman from Lucas [Mr. Edwards,] be requested to furnish this committee with the evidence of the horse he referred to in his speech upon the politics of the country."

Mr. HALL. I hope the gentleman will not only furnish the evidence there was such a horse, but the horse himself; because he might be a match for the gentleman from Wapello. (Laughter.)

Mr. EDWARDS. Is this motion debatable?

The CHAIRMAN. No, sir.

The amendment of Mr. Peters was rejected.

The question recurred upon the amendment of Mr. Clarke, of Henry.

Mr. HALL. I want to renew my faith again upon that question. When I was discussing this question some days ago, I was in favor of letting the persons who had the property have something to say with regard to it, to let owners control their own property. Gentlemen were very much alarmed lest the elective franchise should be taken away from those who had property. So I withdrew my motion, finding that it had no friends here, and concluded that I would leave the matter to the tender mercies of those who had the money, and, therefore, had the power to take it away. Now, sir, I do seriously believe that the voting of stock by the counties is one of the most mischievous features of the present age. It is taking the money from the people, and absolutely giving it away. History will record it as worse, if permitted to go on in this State, than the South Sea bubble was. It will abstract more money from the pockets of the people than that scheme did; because we know that these debts will continue to increase upon the people, and we know that they do not

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get more than sixty cents upon the dollar for what they issue. These are facts. We are horror stricken, and shudder at the idea of creating a State debt. I would infinitely rather allow the the State to run thirty million dollars into debt than to allow this county system to go on. It will be wiser for us; because we get for our State stock dollar for dollar. But now we are going into a system which is rapidly creating a debt against the people, which will abstract an enormous sum by way of interest every year, and finally the principal must be paid. In the first place we must pay eight dollars per annum for the use of sixty dollars. That is a pretty heavy interest. And finally, at the end of twenty years we must pay one hundred dollars for every sixty dollars that we received. No man, and no county can stand up and prosper under such a system. It is all nonsense; it is all folly, to expect it. If we open the door, and permit this to go on in this way, it is ruinous. We may now laugh and joke about it as much as we please, but bye and bye the pay day must come. And then the laborers of the State will have to dig this money from the earth, and earn it by the sweat of their brow. All that we receive, and more than all, must be returned. The face of the bond must be redeemed. I fear that the day of payment will come upon us, and find us unprepared.

I complain of no gentleman for the course this convention has taken. Other members have their own views and I have mine. But after seeing the feeling of the convention, I come to the conclusion that I would at least place myself where all can say that I have done no positive mischief; I have but left the constitution where I found it, and at least prevented the principle from being recognized that the counties were authorized to incur these debts. I shall vote that the principle of allowing the counties to create these debts, shall not be recognized in the constitution. If the legislature has power to authorize the counties to create these debts, or if individuals who have no property can be allowed to create a debt against those who have property, if the county has a right, as a political community, to go into speculations, in railroads or in any other business, should the legislature again sanction it, let it come, I have not another word to say. But so far as this constitution is concerned, I desire that there shall be nothing placed in it which shall be susceptible of the construction that we give our direct authority and sanction to this immense indebtedness, and the calamity which I believe will follow if this is to go on.

It is said by gentlemen here that the supreme court may decide that it is unconstitutional for the counties to incur these debts. This is urged as a reason by the gentleman from Henry, [Mr. Clarke] and perhaps by some other gentlemen as a reason why we should recognize this principle. Let me say to those gentlemen that if the supreme court ever do decide these laws to be unconstitutional, it will be upon a principle more sacred to mankind than any other principle than that of the right to life and liberty itself. It is one which stands side by side with the natural rights of man. It is one from which we should shrink and shudder rather than permit its violation to be encouraged or even sanctioned. It will be upon a principle of national government which is made to protect and not to destroy. It will be upon one of these high, elevated principles, the violation of which would shake our system to its centre, or even tear out its very vitals. It would be upon such a principle that the supreme court would decide these bonds to be invalid. And even if the violation of that principle is lurking in our constitution, they will never sanction it. There is something in this country that is higher than the constitution itself. There are principles that no constitution can pull down. There are principles that belong to us, that are born with us, that are inalienable. No constitution can take them away from us, unless it becomes the worst kind of despotism. They never can be taken away from the American people, until we are conquered by tyrants, and are forced by the bayonet to yield them up. These living principles which cannot be crushed, and which no political power can take away from us, will be the cause of the decision of the supreme court, if they shall assert in their judicial decisions that this system is wrong.

Whether that principle exists to protect us in this matter, I shall not pretend to assert; but unless it is absolutely necessary to assert that principle in order to defend us from this innovation, the constitution will sanction this county indebtedness; and I am willing under the circumstances to leave it there. I leave the future in the same position that the past has been in. I am willing that the counties in this state should continue to stand in the same position that they have occupied since the origin of our government. These are my feelings. That is as far as I can go. I have voted consistently to sustain that course, all the way through; so that if mischief does come, "thou canst not say I did it." I shall continue to vote to keep the constitution as it is, in regard to this matter, because I believe it is better to have it as it is than to recognize the right in any form whatever.

There have been decisions by the court already, but not unanimous decisions. I have carefully looked over the decisions in the railroad reports, and I find that it has been pretty generally the case that very few if any recognizing this principle have had the unanimous action of the courts. Where this will end, I do not know; whether the court will sanction or overturn the system, I cannot foresee. But I know one thing; that the courts are influenced by the particular feeling of the community, and partake of the sentiments of the people that surround them. They will make decisions at one time which they would not make at another. This is a historical fact. Decisions were made

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in Mississippi under circumstances of an excited feeling which had been roused there, and remained in force for years, but they were afterwards changed, were overruled. So it has been in many states of this Union. Every person acquainted with the history of judicial decisions knows that the feeling of the community does produce an effect upon the court. I think that those decisions may perhaps have fallen under that influence. Perhaps not. But I am willing to let the great principles that belong to man, which no government can take away from him, unless he forfeits them by some act, abide with man still. I am willing the question should be decided by that, and by that alone. I am willing to leave our constitution where I found it, in relation to this matter.

Mr. EDWARDS. This matter has been so fully discussed that I shall say but a word or two. It appears to me that my friend from Des Moines [Mr. Hall] makes it a very serious matter, especially when taken in connection with his remark upon other subjects, that it is easier to find a fault than to provide a remedy. It appears to me that if he looks forward to the day when the State will be ruined by the counties encouraging and engaging in the system of railroad enterprises, by subscribing for stock, he should use all his ability for the purpose of putting a check to the occurrence of any probable or possible contingency of that kind. I know it would be an easy matter, eight or ten years hence, when this extravagant indebtedness shall have proved disastrous to many counties, for that gentleman to turn back to the record and say—I told you this would happen so and so; I can show you that I was a prophet, and could look down the long vista of time; I told the convention that if they permitted the counties to subscribe for stock in the railroads, it would prove disastrous to their best interests; but they would not heed my warning voice.

Now, if that gentleman is correct in his conclusions, I say that he should bring all his power and all his ability to bear, for the purpose of entirely prohibiting and restraining any municipal corporation from becoming a participant, in any way, in any of the internal improvements that may be proposed to be constructed. And if he cannot do that, I think he should go as far as any man upon this floor in carrying out his doctrine by restricting them to the very lowest limits.

I should have preferred the amendment of the gentleman from Delaware, [Mr. Peters], but if I cannot obtain that, I am willing to compromise, to take a smaller amount, and accept the amendment now offered. I am in favor of some restriction, for this reason: If we restrict the counties to a proper limit, it will have a tendency to indorse the credit of the bonds issued by the various counties. Incorporate into the constitution a provision of this character, and it settles the question beyond dispute. Then you can go into market with your bonds with a good grace; for capitalists can look at your constitution and see that they are sheltered and protected by a constitutional provision; and there will not be any probability of these bonds being declared invalid upon the ground of unconstitutionality. I think that the times demand that there should be some wholesome check thrown around this system of county subscription. We have tried various plans, and I think the proposition of the gentleman from Henry [Mr. Clarke] will come as near meeting the wishes of gentlemen of the convention as perhaps any other amount. I am willing to agree to that.

Mr. SKIFF. It seems to me that we are taking up a good deal of time with this matter. We might just as well repeat all the speeches which have been made from the beginning of the session as to discuss this question any more. I do not feel disposed to cut off gentlemen from speaking upon this matter. But we have heard some old speeches over and over again, and have voted the subject down. I have always supported the plan proposed now; but I am confident that it will not be sustained by this convention. I do not feel disposed to see it pushed any further; and although I have been a friend to it all along, I shall oppose the motion now.

Mr. CLARK, of Alamakee. It is true that the convention has spent considerable time upon a question similar in some of its bearings with that now before this convention. But even if it were the same question, I think that a question of this importance will warrant us in investigating it thoroughly.

I propose to occupy but a very few moments of the time of this convention. In the first place, I am in favor of introducing into the constitution a provision of the kind proposed. I am in favor of it because I believe that it is right. I believe that counties, as municipal corporations, have no more powers than states. They have no more latitude, no more discretion. Nor are they in the habit of using their discretionary powers with any more wisdom or prudence than the states, or any other corporation or municipal body. This convention, by a very decided vote, has settled the policy as to the indebtedness of the State as a corporate body; and it has settled it upon a principle which is much more restrictive than is the one by which it is now proposed to settle it in reference to the counties.

I wish our constitution, when it is framed and adopted, to be consistent; that this consistency between one part of the instrument and another part, shall run through the whole instrument. It will not be consistent to provide that the State, as a State, shall not incur an indebtedness exceeding two hundred and fifty thousand dollars, and then to allow the counties, or other municipal corporations, to run into debt to any amount that they choose, even to the extent of millions of dollars. Where is the consistency between these two principles? Where is the right or the safety in allowing the county to become thus indebted, if you will

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not allow the State to become thus indebted? Is the indebtedness of a State any more dangerous than the same or a greater indebtedness fastened upon a single county of that State?

In the next place I am in favor of this provision from the fact that I believe it allows all the indebtedness that is ever necessary. I believe no county will ever be required to assume an indebtedness more than six per cent. upon its taxable property, for any object for which they should ever allow themselves to be taxed, or upon any principle which gives them a right in their corporate capacity to become indebted. I believe that counties and states have no right as such to incur any indebtedness, or any responsibilities beyond those which are necessary to support those institutions under which the people unite for common protection. So far as it is necessary for a municipal corporation to draw from the pockets of the community at large for those purposes, there can be no question as to the right; but when you depart from that principle and assume that a majority of the people of the county or the state have the right, because the simple majority desire it, to depart from the objects which induce mankind to form a government, and to launch out into other investments or other speculations, the majority drawing the money from the pockets of the minority against their will, for purposes entirely separate and distinct from the support of the government, I object to it that it is unjust and oppressive. The people come together and enter into a compact for certain purposes; and if you carry your powers beyond these, you depart from the very first principles of government. It establishes an aristocracy; and carried out, it becomes the most powerful and oppressive, and unfeeling aristocracy the world has ever witnessed.

I contend that the majority have no right to say that the minority shall not have a free choice, shall not exercise their own judgment in determining in what manner they shall use their money, in what business or occupation in life they shall invest their earnings. I take it that they have no right to say that the minority shall invest their earnings in a plank road, or in any other improvement, against their will. If the majority have the right to determine for the minority how they shall invest their earnings to the extent of six per cent., or one-tenth, or one-fourth, or any other proportion of the taxable or actual property, there is no reason why they should not have the right to assume the control of the whole of that property. Once adopt the principle, and there is no stopping place. There is no line that can be drawn that will stay the onward march of that oppressive law.

For these reasons I am in favor of the provision now offered. I believe it is amply sufficient for all municipal and corporate purposes. It is all they will ever need; all they will ever require. It is true, as gentlemen say, that if this passes, it will prevent some counties from taking stock in improvements to the extent that they would wish. I am in favor of it for that very reason. I believe that there is a systematic speculation entered into by some counties in this State which will prove ruinous to those counties, and which, if carried out extensively, will prove ruinous to the State. The principle upon which some men have adopted and advocated that policy, has been very happily illustrated by my friend upon my left, the gentleman from Mills, [Mr. Solomon,] when he admits that his county, if there is any danger, has got her head under the fence, that she is caught in the trap, and wants us to sustain a provision by which other counties may get their heads under the same fence and be caught in the same trap. They admit that the principle is wrong; but they have got caught in the trap, and now think it a great hardship to them that we should interfere to prevent other counties from being caught in the same way, by incurring an indebtedness which will prove ruinous. I am opposed to such a policy. If the principle is wrong, and if some counties have assumed an indebtedness greater than prudence would warrant, it is no reason why other counties should be left to fall into the same dilemma. It is no reason why the constitution should be so framed that other counties may be embroiled in the same difficulties. This very fact, to my mind, is a direct argument in favor of a provision in this constitution to preclude the possibility of other counties committing the same error upon this subject.

I am aware that at the present day I am talking against the public sentiment. I am aware that there is a feeling of speculation through this land, that the public mind has become excited, that there seems to be a spirit of recklessness. I am aware that although we are running in debt, we are at the present time, to all appearances, in a great state of prosperity. I am perfectly aware of all this; but I am also confident that the day is not far distant when their will be a reaction. We shall not always continue to prosper and progress in this way. This reckless expenditure, this reigning idea of making improvements at all hazards and regardless of expenses incurred, regardless of the great expense of making the improvements, regardless of the great discount at which these bonds must be sold in the market, regardless of the heavy interest annually to be paid, regardless of the principles which govern every prudent man in the management of his private affairs, cannot always continue. There must inevitably be a reaction. Whenever one branch of business is crowded beyond its natural channel, by the use of artificial means, the time must come when the reaction will take place. And if this is allowed to go on, in the end, at a time not very far distant, the counties will begin to become bankrupt. There will be a majority of the counties of the State caught in this very trap; and then they will turn round and vote that indebtedness upon the State; so that in the end the State will be compelled to assume the debt. So that unless we adopt a restriction, we shall

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have implanted in our very constitution itself, that which will in the end overturn our restriction upon State indebtedness. Instead of restricting the debt of the State to two hundred and fifty thousand dollars, we have set fire to the train, in the constitution itself, which will eventually force upon the State a debt of eighteen, twenty, or perhaps thirty millions of dollars. Shall we do it? Or shall we pause and lay down a limit somewhere, which will have a tendency to check this reckless spirit of speculation; which will bring people within limits somewhere within the range of common prudence? I believe that is our duty; and I am therefore, in favor of the provision which is now proposed to be adopted in this constitution.

Mr. GIBSON. I think it is very unfortunate that the railroad bridges got washed away, and thereby delayed the printing of our debates. If we had kept up with our debates as we expected we would at the commencement, I think it would not have been necessary to make these speeches over again now, as gentlemen could have referred the convention to the page of the printed debates for one of their old speeches, and thus saved the time of this body.

Mr. CLARKE of Henry. Gentlemen have certainly been laboring under a misapprehension in regard to this matter. I offered it here, and let this discussion spring up in order to prepare the way for what is to come hereafter. I tell you gentlemen, laugh at it as much as you please, this principle will yet be adopted by this convention. I know that a majority of the convention are in favor of some restriction upon those cities and counties, if they can only get at it. It is only taking the same principle that has been applied to the State, and applying it to counties and other municipal corporations. I shall renew this amendment in the convention if it is rejected here.

The question being then taken upon the amendment, it was rejected, ayes 8, noes 14.

Mr. WINCHESTER moved that the committee rise, report back to the convention the subject referred to them, and ask to be discharged from its further consideration.

The question being taken, the motion was agreed to.

In Convention.

The PRESIDENT having resumed the chair—

The CHAIRMAN of the Committee of the Whole reported that the committee had had under consideration the subject referred to them, being the report of the committee on miscellaneous subjects, had made some amendments thereto, and had instructed him to report the same back and ask to be discharged from its further consideration.

The report of the committee of the whole was received, and the committee discharged accordingly.

The convention proceeded to the consideration of the report of the committee on miscellaneous subjects, as amended in committee of the whole.

Jurisdiction of Justices of the Peace.

The first amendment was to the first section; to strike out the word "fifty" and insert the words "one hundred," so that the section would then read:

"The jurisdiction of Justices of the Peace shall extend to all civil cases, [except cases in chancery, and cases where the question of title to any real estate may arise,] where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars."

The question was upon concurring in the amendment.

Mr. CLARKE of Johnson. I desire to say a few words upon this subject in justification of the action of the committee. I have had some experience in connection with the practice of the law, and my experience is about this; that the effect of extending the jurisdiction of Justices of the Peace would be to create double litigation. There is scarcely a suit involving the sum of fifty dollars or upwards, but what is a matter of controversy between two parties; and the result is that all these cases go to the district court, and the party is put to the expense of two suits, double lawyer's fee, and every thing of that kind. By reducing the jurisdiction of justices of the peace to fifty dollars, you will facilitate the business of parties by having them commence their suits in the proper place in the first place, and in the proper manner; and thus you save expense and cost to the people.

There is also another reason for this. When this provision was incorporated in our present constitution, we had a different system of practice to regulate the working of our courts. Under our present system of practice, if a man wants to make a defence against a suit brought against him, in order to have his case fairly determined, it is necessary for him to have the same pleadings that he would have in the district court, and he is compelled to have lawyers employed to attend to it for him. This will not, therefore, increase the expenses of suits before justices of the peace, but will in many cases secure justice to him who deserves it. I know from experience that without this extended jurisdiction, these justices' courts become a great means of wrong. It is very common for men to reduce the amount of a claim to a sum within the jurisdiction of the justice, for the purpose of compelling a man to take the case from the neighborhood where men are against him, to where he can have an impartial trial, as in his own county, where the jury is taken from his own neighborhood. Now as a matter

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of safety to the rights of the individual, I am satisfied that the interests of the people will be promoted by reducing the jurisdiction of justices of the peace to fifty dollars.

Mr. HARRIS. I will say this; that if I wished to represent myself and lawyers, I would support the position of the gentleman from Johnson [Mr. Clarke]. But as I wish to represent the people and their interests, I shall support the amendment made in committee of the whole.

The question being then taken upon the amendment of the committee of the whole, it was concurred in.

Elections to fill Vacancies.

The next amendment of the committee of the whole, was to modify section five so that it should read as follows:

"In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified."

The question was upon concurring in the amendment, which, being taken was agreed to.

Location of the State University.

The next question was upon concurring with the committee of the whole in striking out the following section:

"Sec. 6. The State University shall consist of a single institution, and be permanently located at Iowa City. The present State Capital, with such improvements and additions as may be provided for by law, shall be occupied by the State University, when not used by the State for other purposes."

Upon this question

Mr. CLARKE of Johnson, called for the yeas and nays, and they were accordingly ordered.

The question being taken by yeas and nays, upon concurring with the committee of the whole in striking out the above section, it was agreed to, yeas 24, nays 11, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Warren, Wilson, Winchester and Young.

Nays—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Ells, Gower, Gray, Hollingsworth, Palmer, Parvin and Traer.

The State locating Land.

The next question was upon concurring with the committee of the whole in striking out the following section:

Sec. 7. The General Assembly shall not locate any of the public lands, which have been or which may be, granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant, so exempted, shall not exceed three hundred and twenty acres."

Mr. CLARK of Alamakee. I hope this amendment will not be concurred in, but that we will have some provision in the constitution for the protection of actual settlers. If Congress makes an appropriation of land to this state, I see no good reason why we should retard actual settlement upon the lands of the United States, between the time of making the grant, and the time of locating the land by the state. If the state wishes the first choice, let her be expeditious in making her selections. I believe the people should have the privilege of making claims upon the public lands, and that all *bona fide* claims should be respected.

The question was upon concurring in the amendment.

Upon this question—

Mr. CLARK of Alamakee, called for the yeas and nays, and they were ordered accordingly.

The question being then taken by yeas and nays the amendment was not concurred in, yeas 16, nays 19, as follows:

Yeas—The President, Messrs. Ayres, Day, Edwards, Emerson, Gray, Hall, Patterson, Peters, Robinson Scott, Seely, Todhunter, Warren, Winchester and Young.

Nays—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Ells, Gibson, Gillaspy, Gower, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Price, Skiff, Solomon, Traer and Wilson.

Submitting Laws to the People.

The next amendment of the committee of the whole was to add the following section:

"No law which may hereafter be passed by the Legislature, and approved by the Governor, shall be submitted to the people to be voted upon, previous to its taking effect; subject to the provisions of the foregoing constitution."

The question was upon concurring with the committee of the whole in the amendment which had been offered by Mr. Skiff.

Mr. PALMER. I move to strike out the words "subject to the provisions of the foregoing constitution," and insert the words "except as herein otherwise provided."

Mr. SKIFF accepted the amendment.

Mr. HARRIS. I hope this amendment will

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not be concurred in. I think we have got along well enough with the matter as it is now.

Upon this question—

Mr. GRAY called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was not concurred in; yeas 13, nays 22; as follows:

Yeas—Messrs. Ayres, Emerson, Gillaspy, Hall, Palmer, Patterson, Price, Robinson, Seely, Skiff, Solomon, Todhunter and Winchester.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Gibson, Gower, Gray, Harris, Hollingsworth, Johnston, Marvin, Parvin, Peters, Scott, Traer, Warren, Wilson and Young.

The PRESIDENT announced that all the amendments of the committee of the whole had been considered.

City and County Indebtedness.

Mr. EDWARDS. I offer the following as an additional section:

"No county, or other political or municipal corporation shall be allowed to become indebted in any way, or for any purpose, to an amount in the aggregate exceeding five per cent. upon the value of the taxable property within said county or corporation, to be ascertained by the last state and county tax lists."

Mr. EMERSON offered the following as a substitute:

"No political or municipal corporation shall become a stockholder in any corporated company, nor shall the bonds or other evidences of indebtedness be loaned directly or indirectly to aid in any work of internal improvement."

The question was upon the substitute.

Upon this question—

Mr. EMERSON called for the yeas and nays and they were ordered accordingly.

The question being then taken by yeas and nays, upon the substitute, it was not agreed to; yeas 11, nays 24, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Emerson, Gray, Hall, Palmer, Solomon, Warren and Winchester.

Nays—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Ells, Gibson, Gillaspy, Gower, Harris, Hollingsworth, Johnston, Marvin, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Todhunter, Traer, Wilson and Young.

The question then recurred upon the amendment of Mr. Edwards.

Upon this question—

Mr. EDWARDS called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was agreed to; yeas 19, nays 16, as follows:

Yeas—The President, Messrs. Clark of Alamakee, Clarke of Henry, Day, Edwards, Ells, Gower, Gray, Hall, Hollingsworth, Marvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Bunker, Clarke of Johnson, Emerson, Gibson, Gillaspy, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Solomon and Winchester.

Mr. CLARKE of Johnson. I wish to say, in explanation of my vote upon this proposition, that the record will show that I have all along been in favor of the counties being allowed to exercise this right; and I have voted for propositions like this when the sums have been larger; but I voted against this because I thought that the sum was too small.

Mr. PETERS. I wish to say, in explanation of my vote, that I voted against this amendment because I considered it too small.

Eligibility to Office.

Mr. SKIFF offered the following as an additional section:

"No person shall be eligible to any office in this State, until he is a voter in the election district where he is to exercise the functions of his office."

Mr. SKIFF. In the vicinity where I reside, I have known some two persons to be elected to office before they were voters. I never knew any great inconvenience to grow out of it, but some inconveniences might arise in future. I would have this apply to the election of all officers from the Governor of the State down.

The question being taken upon the amendment, it was not agreed to.

Intoxicating Liquors.

Mr. WINCHESTER. I offer the following amendment as an additional section:

"The General Assembly shall have the power to prohibit the manufacture and sale of intoxicating liquors as a beverage."

I do not desire any discussion upon this matter, merely a vote of the Convention.

Mr. HARRIS moved to lay the amendment upon the table.

Upon this motion—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon the motion to lay the amendment upon the table, it was agreed to; yeas 20, nays 15, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Solomon, Wilson and Young.

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Nays—The President, Messrs, Bunker, Clarke of Henry, Clarke of Johnson, Day, Ells, Gower, Gray, Hollingsworth, Marvin, Skiff, Todhunter, Traer, Warren and Winchester.

Railroad Laborers, &c., not Voters.

Mr. WARREN offered the following as an additional section:

"No contractor or laborer, employed in building railroads, or other public improvements, shall be entitled to vote in any county, city or town, upon the question of said county, city or town taking stock, or issuing bonds to the railroad or other public improvement, unless a resident for six months in said county, city or town, prior to offering to vote."

Upon this amendment—

Mr. CLARKE of Johnson called for the yeas and nays, and they were ordered accordingly.

Mr. WARREN. I will state, as a reason for offering this amendment, that, as the Constitution now stands, we only require twenty days' residence in a county, city or town, to give a right to vote. I offer this amendment to prevent rail road hands from imposing a heavy tax upon the citizens of a county against their will.

Mr. HARRIS. I think it would be a difficult matter to determine who were railroad hands and who were not.

The question being then taken, by yeas and nays, upon the amendment, it was not agreed to; yeas 8, nays 27, as follows:

Yeas—Messrs. Clarke of Henry, Day, Edwards, Ells, Marvin, Scott, Skiff and Warren.

Nays—The President, Messrs. Ayres, Bunker, Clark of Alamakee. Clarke of Johnson, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Seely, Solomon, Todhun er, Traer, Wilson, Winchester and Young.

Upon motion of Mr. HARRIS—

The article, as amended, was ordered to a third reading, and referred to the committee on revision, engrossment and enrollment.

Seven o'clock Session.

Mr. WINCHESTER moved that the convention now take a recess until seven o'clock P. M.

Mr. TODHUNTER. There are some three or four of us here who are not able to attend night sessions: the gentleman from Appanoose, [Mr. Harris,] the gentleman from Washington, [Mr. Bunker,] and myself, are too unwell to attend here. I think it would be improper to force us to come here in the present state of our health.

Mr. JOHNSTON. I was appointed this morning the chairman of the select committee on the school fund. That committee desires to meet as soon as they can, to determine upon the subject referred to them. I hope the motion for a recess will not be agreed to.

Mr. WILSON. I believe the gentleman from Lee [Mr. Johnston,] voted the other day for a night session. I objected to it then, because I was upon four active committees; but the gentleman voted against me, and I think I shall vote against him now.

Mr. JOHNSTON. If the gentleman had risen in his place, and made such a statement as I have, I should have voted against the motion for a night session.

Mr. GILLASPY. I have no disposition to require those persons who are indisposed to come here to-night. So far as I am individually concerned, I would be glad to come here every night. But as my friend from Warren [Mr. Todhunter,] has not been able, from indisposition, to be in his seat much of late, I think it would be unjust to force him to come here to-night.

Mr. CLARK, of Alamakee. I have no doubt but what the convention will excuse from attendance, any member who is too unwell to come here.

Mr. HARRIS. I would like to be here as much of the time as possible. This convention has certainly time enough to get through its business without these night sessions. I cannot possibly come here this evening.

Mr. WINCHESTER withdrew his motion for a recess at the request of—

Mr. TRAER, who moved to take up the report of the committee on the right of suffrage, and make it the special order in committee of the whole this evening, at seven o'clock.

Mr. TODHUNTER. It seems to me that members should have some regard for those of us who cannot attend here to-night. As my friend from Wapello [Mr. Gillaspy,] has said, I have not been able to attend here half of the time of late. My friend from Washington, [Mr. Bunker,] and my friend from Appanoose, [Mr. Harris,] cannot attend here to-night. We are just as anxious, as any gentleman upon this floor, to have the session of this convention brought to a close. I am anxious to have this matter of the right of suffrage got along with as speedily as possible. But we do not like to have these reports considered here when we are absent. I have an anxious desire to be present, and would like very much to participate in the discussion upon this matter. And I desire my friends, who are unwell, and who would like to be present, to have an opportunity to listen to the discussion.

Now it would be unfair to have a night session, even, as gentleman say, if we can be excused. It is scarcely safe for us to be here in the daytime, and it would not be safe for us at night, for I can hardly get to my lodgings at the close of our afternoon sessions. I hope this convention will not have these night sessions, until we are able to come here, and participate with the

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rest in these matters. We are not so pushed for time, it seems to me, as to need these night sessions at present.

Mr. WILSON. If this motion for a night session prevails, there is no probability that a final vote would be taken upon the question to-night.

Mr. TODHUNTER. We would like to hear the discussion.

Mr. CLARKE, of Johnson. I have no disposition to insist upon a night session to the inconvenience of anybody. There is a discussion pending that I do not desire to remain upon our records in its present condition. It was announced here some days ago that these night sessions would be devoted to this discussion. As the gentleman from Jefferson [Mr. Wilson,] has remarked, there will probably be no final vote to-night, even if we do meet here. I do not want this discussion put off in its present shape until it is crowded out entirely.

The question was upon the motion to make the report of the committee on the right of suffrage the special order in committee of the whole for to-night at seven o'clock.

Upon this motion—

Mr. WILSON called for the yeas and nays, and they were ordered accordingly.

The question was then taken, by yeas and nays, and the motion was not agreed to; yeas 11, nays 24, as follows:

Yeas—Messrs. Clark of Alamakee, Clarke of Johnson, Day, Edwards, Gibson, Marvin, Robinson, Traer, Wilson, Winchester and Young.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Henry, Ells, Emerson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Peters, Price, Scott, Seely, Skiff, Solomon, Todhunter and Warren.

On motion of Mr. HALL—

The convention then adjourned until to-morrow morning at 9 o'clock.

FRIDAY, February 27, 1857.

The Convention met at 9 o'clock, A. M., and was called to order by the President.

Prayer by Rev. C. B. Smith.

The journal of yesterday was read and approved.

No petitions or memorials, or reports from standing or select committees, were presented.

Printing of the Journal.

On motion of Mr. TRAER,

The Convention took from the table, and proceeded to consider the following resolutions submitted by Mr. Parvin:

"*Resolved*, That John Mahin be hereby employed to print ——— copies of the journal of the Secretary, and that he be paid as a compensation therefor, the same amount as is paid to the State Printer for like services.

"*Resolved*, That the Secretary, T. J. Saunders, be employed to superintend the printing of, and to distribute the said journals; and that he be allowed ——— dollars as compensation in full for his services.

"*Resolved*, That John Mahin be employed to print ——— copies of the amended constitution, separate from the journals, and that he be paid therefor the same amount as is paid to the State Printer for like services."

The question was upon filling the blank in the first resolution.

Mr. GOWER moved to fill the blank with the words "fifteen hundred."

Mr. MARVIN moved to fill it with the words "twenty-five hundred."

The question was then taken upon filling the blank with "twenty-five hundred," and it was not agreed to.

The question was then taken upon filling it with "fifteen hundred," and it was agreed to.

The resolution, as amended, reads as follows:

"*Resolved*, That John Mahin be hereby employed to print fifteen hundred copies of the journal of the Secretary, and that he be paid as a compensation therefor, the same amount as is paid to the State Printer for like services."

Mr. CLARKE, of Johnson. I move to amend the resolution by providing that there be printed with the journal the constitution as amended. I think that ought to go with the journal.

Mr. PARVIN. I supposed that would be printed with the journal as a matter of course. There is another resolution in this series providing for the printing of the constitution separately.

Mr. CLARKE, of Johnson. I am not particular about my amendment, and will not press it now.

The next resolution was read as follows:

"*Resolved*, That the Secretary, T. J. Saunder, be employed to superintend the printing of, and to distribute the said journals; and that he be allowed ——— dollars as a compensation in full for his services."

The question was upon filling the blank.

Mr. PARVIN. I hardly know what should be given to the Secretary for this service. I would move to fill the blank with "four hundred." If, in the opinion of members, that is too much, they can move other sums.

Mr. HALL. Is that for distributing them to the different counties throughout the State?

Mr. PARVIN. The resolution contemplates that the Secretary shall distribute them just as the convention may determine.

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Mr. HALL. If the Secretary is to distribute these journals within a given time, that sum is too little If he is to distribute them among a hundred counties that will not pay his expenses. If it is not contemplated that he shall do that, then the sum named is enough.

Mr. MARVIN. I apprehend we are all in the dark in regard to this matter. I think this particular resolution should be somewhat farther investigated.

Mr. CLARKE, of Johnson. I find that the convention of 1846 ordered eight thousand copies of the constitution to be printed by itself. That is a larger amount than we have ordered now, though we have ten times the population we had then.

The PRESIDENT. That matter is not decided yet.

Mr. CLARK, of Johnson. In order that we may understand this matter, I move that these resolutions be referred to a select committee of three.

The question being taken, the motion was agreed to.

The PRESIDENT announced as the committee—

Messrs. Clarke, of Johnson, Hall and Parvin.

Printing the Constitution in German, &c.

On motion of Mr. CLARKE, of Johnson,

The Convention took up and proceeded to consider the following resolution:

"*Resolved*, That ———— ————, of Dubuque county, be employed to translate the constitution into German, and that he be employed to print three thousand copies of the same at the prices now paid by law for the same kind of work."

To this resolution there was an amendment pending, which had been offered by Mr. Gibson, providing for the printing of one thousand copies of the constitution in the Holland language.

Mr. CLARKE, of Johnson, moved that the resolution be referred to the select committee upon printing the journal.

Mr. GIBSON. I wish to offer a substitute for my amendment, which I desire to have go before the committee.

The PRESIDENT. The gentleman can move to instruct the committee to inquire into the expediency of such a proposition; but a motion to commit takes precedence of a motion to amend.

Mr. GIBSON. I then offer the following resolution of instructions:

"*Resolved*, That the select committee of three upon printing the journal, &c., be instructed to inquire into the expediency of providing for having one thousand copies of the amended constitution printed in the Holland language; and that Henry P. Scholte, of Pella, Marion county, be employed to print and superinted the same, and that he be allowed the same compensation as is now provided by law for similar services."

The question being taken, the resolution was adopted.

The original resolution was then referred to the select committee.

Night Sessions.

The following resolution, offered by Mr. Gibson, was then taken up and read:

"*Resolved*, That this convention will meet each evening at 7 o'clock, in addition to its regular sessions, during the remainder of the session."

The question was upon the resolution.

Mr. GIBSON. I hope the convention will pass this resolution this morning. The time that is left us is but short before the day we have fixed for adjournment, and there is considerable business before the convention, and I do not think we can possibly get through it with only day sessions. I think we should have night sessions, in order to expedite business, and endeavor to close the labors of this convention by the time fixed upon for adjournment. I do not think night sessions will be of much inconvenience to members—to but few at any rate; and those who cannot attend can be excused.

Mr. SKIFF. It seems to me to be rather late in the day for any special rule of the convention in regard to night sessions. If it is so that we can profitably meet here at night, of course we will do so, without such a resolution as this. I move that this resolution be indefinitely postponed.

The question being then taken upon the motion to indefinitely postpone the above resolution, it was agreed to.

Board of Education.

The PRESIDENT announced the next business in order to be the consideration of the report of the committee on education and school lands, as amended in committee of the whole.

The first amendment of the committee of the whole was to strike out of the first section the words, "sixteen members," and add to the section the words, "one member from each judicial district," so that the section would then read—

"The educational interests of the State to include common schools and other educational institutions, shall be under the management and control of a Board of Education, which shall consist of one member from each judicial district."

The amendment of the committee of the whole was concurred in.

The next amendment was to section two, striking out the words, "two years," and inserting the words "one year," causing the section to read—

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"No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been one year a citizen of the State."

The amendment of the committee of the whole was concurred in.

The next amendment was to strike out of section three, the words, "the General Assembly shall district the State into sixteen educational districts," and, also, the words, "shall hold their offices," and insert the words, "hold his office," so that the section would then read—

"One member of said Educational Board shall be chosen by the qualified electors of each district, and hold his term of office for the term of four years; and after the first election under this constitution, the Board shall be divided by lot into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the Board shall be chosen every two years thereafter."

The question being then taken, the amendment of the committee of the whole was concurred in.

The next amendment was to add to the fifth section the following:

"And each member of said Board shall perform such duties in the district in which he is elected as superintendent of schools, as may be prescribed by law."

So that the section would then read:

"The session of said Board shall be limited to twenty days, and but one session shall be held in one year, except upon extraordinary occasions, when, upon the recommendation of two thirds of the Board, the Governor may order a special session. And each member of said Board shall perform such duties in the district in wh ch he is elected as superintendent of schools, as may be prescribed by law."

The amendment of the committee of the whole was concurred in.

The next amendment was to section six; strike out the word "inferior," and insert the word "necessary;" and also strike out the words "usual in legislative assemblies;" so that the section would then read:

"The Board of Education shall organize by appointing from their body a presiding officer, and the appointment of a Secretary and other necessary officers. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the General Assembly."

The amendment of the committee of the whole was concurred in.

Common Schools.

The next amendment was to section ten; strike out the word "three," and insert the word "six," so that the section would then read:

"The Board of Education shall provide a system of Common Schools, by which a School shall be organized and kept in each district at least six months in each year. Districts failing to organize and keep up a school, may be deprived of their portion of the School Fund."

The question was upon concurring with the committee of the whole in their amendment.

Mr. SKIFF. I am inclined to think that this is a little too much to require of some of the new districts. I think that some of the new districts would not be able to keep up a school for that length of time. I shall, therefore, feel under the necessity of opposing that amendment. I think that some provision should be made here that could be made of general application, that all the counties, new and old, could agree to. I therefore move to amend the amendment by striking out the word "six" and inserting "four."

Mr. TODHUNTER. I hope the amendment of the gentleman from Jasper, [Mr. Skiff,] will not prevail. I would rather say that the school should be kept twelve months in each year, than to reduce it below that agreed to by the committee of the whole. If there is any one change which our present school system needs, it is to provide the means to secure a school in each district for a greater length of time in each year. That is the great lack in our present school system; the only serious lack that can be complained of, is the want of schools in the several districts. Means should be supplied by this board, or by the legislature, to keep a sc ool in each district, constantly, if possible. Instead of reducing the number of months during which the school is to be taught, we should rather increase it. I favor the increasing the number to twelve, rather than reducing it below six. Six months is certainly little enough for any district during the year. I hope the amendment of the gentleman from Jasper will not prevail, but that we will concur in the amendment of the committee of the whole.

Mr. GOWER. I have no objection to providing a school in each district for thirteen months in each year, if you please. [Laughter.] But what I object to is this cutting off the school fund from a district because it does not happen to keep a school a certain number of months in each year. I think with such a rule as that, to require a school for three months is quite enough. If it is intended to deprive the districts of their respective shares of the school fund, if they do not keep up a school for a certain number of months, I shall be opposed to fixing the time over three months.

Mr. TODHUNTER. I understand the object is to compel the districts to have six months school in each year.

Mr. GOWER. I would not deprive the districts of their share of the fund, if they kept the school three months in each year.

Mr. GIBSON. I hope the amendment of the gentleman from Jasper, [Mr. Skiff,] will not prevail. It strikes me that six months time is

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little enough for a school in any district. I am like my friend from Warren, [Mr. Todhunter,] I would rather increase than decrease the time, if there is to be any change from six months. I think that any district in this State that will fail or neglect to keep a school for six months in the year does not deserve to have the benefit of any of the school fund. That is the reason why this provision is made here, as an inducement to the districts to keep their schools for at least six months in the year. We think it is due to the youth of our land to insure a school for at least that time. It has been too common, under the three-month-school system, for some one to take a school for three months and charge enough to consume all the fund there may be in the district, and then there is no more school for the rest of the year. Three months school in a year amounts to about no school at all. A child going to school three months and being out of school nine months in the year, will know but about as much at the end of the year as if he had not gone to school at all.

Mr. HARRIS. The remark of my friend from Marion, [Mr. Gibson,] in relation to the good to be derived from three months' schooling, where there is no more kept during the year, may be very true. But whether it be true or not, my impression is that government should leave all these things, such as the number of months a school shall be kept, &c., as far as possible to the districts concerned. They are little republics themselves, and have a right to control these matters. And to endeavor to force this matter of education will do more harm than good. It is in education as in everything; when you use force you call forth a spirit of opposition that will be likely to prove detrimental to the object in view. My idea is that, after providing the means, the freer you leave this matter the better. I am satisfied, from what I have seen, that this thing of coercion on the part of government does harm rather than good. For that reason I would rather strike out the restriction of three months than make it longer.

Mr. TODHUNTER. It is true this matter should be left as free as possible. How does this section now read?

"The Board of Education shall provide a system of common schools, by which a school shall be organized and kept in each district at least six months in each year. Districts failing to organize and keep up a school, may be deprived of their portion of the School Fund."

There is no compulsion here upon the part of the board of education. There is one thing: it says to the districts, you shall organize and keep up a school so long in each year, or lose your money. They can do as they please; it is entirely discretionary with them. Now if we leave the section so as to require but three months school in each district, they will be very careful to go to work and have just school sufficient to entitle them to the school fund, and to use it up, and the school will cease; and for the remaining nine months of the year the children will be left to run helter-skelter over the district, and will know nothing more at the end of the year than at first. I would be as much in favor of fixing the restriction at nine or twelve months as to make it three months. It is just as much a coercive measure to say a school shall be kept in each district three months, as to say it shall be kept six months. If there are not funds enough to keep a six month's school, then let them resort to subscription.

When you get up a system of this kind, and they see at the beginning that they will lose their proportion of the school fund if they do not keep up the school for the required length of time, there is a stimulus at once upon their action; they will organize, and if there is not sufficient school money to keep it the required time, they will raise the rest by subscription. We thus secure the means by which the schools will be taught in each of these districts for six months; perhaps for whole year; because if you get them once stimulated in this matter, and their children in the habit of going to school, they will take a pride in it, and that will encourage all the rest to have schools. Thus we get a better system by this means, than we would by reducing the length of the schools to three months; because in that case there is not that stimulus upon them, and they will manage to just spend their share of the school fund, and stop with exactly the three months' school.

There is no subject in which I feel a greater interest than in this of schools. I would rather advocate expenditure of money for common schools than for anything else. And I have no doubt that every individual upon this floor who has children to send to school, feels the same interest in this matter that I do.

Mr. SCOTT. I undoubtedly feel as much interest in the welfare of common schools as any individual upon this floor. But I cannot take the view of this matter that the gentleman from Warren, [Mr. Todhunter] takes of it. It appears to me that this school fund is in reality the property of each individual scholar within the jurisdiction of this State. It belongs to them; my children own their share of it; the children of the gentleman from Warren own their share of it. Now the question arises whether, on account of this negligence of the parents and guardians of these children, they shall lose that which is their own, that which belongs to them. Now I claim this to be true; that if this appropriation for school purposes is really their property, then they ought not to lose it in consequence of the negligence of any individuals, not even of their parents. They ought never to lose it, but it should be held in trust for them, until it can be properly appropriated according to law.

The working of this system is different in some localities from what some gentlemen here seem to suppose it is. I have been one of that unfortunate class who have lived in a newly settled district. I recollect very well that for

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three years we were deprived of the privilege of sending our children to school. We could not keep up a school for even three months in the year. We were consequently deprived of our portion of the school fund; it was taken from us, not, I claim, on account of my negligence, and I can most truly claim that it was not on account of the negligence of the pupils placed under my charge. The fund belonged to those pupils and should have been kept and preserved for them. They were not able to meet the requirements of the law; there were only some five or six pupils in the district, and they could not keep up a school three months in the year. They were thus entirely deprived of the benefit of this fund, which was given, not for the benefit of the wealthy districts, but for the benefit of the very classes to which they belonged, the poor and indigent children who have but few facilities for obtaining an education.

Gentlemen tell us that three months' schooling in a year is no better than none at all. Now I certainly cannot take that view of the matter. I have myself received considerable benefit from a three months' school; I believe there are gentlemen upon this floor who have received a vast amount of valuable knowledge in three months. And if there are only three months of school in three years, that will be of great advantage. There are men in this State who have received but three months' schooling in their lives, and yet they have managed to acquire considerable education.

I would be in favor of having schools the year round if possible. But I would deal justly, if not generously by that portion of our State which is not able to have a school for nine months in the year, or at any time perhaps during the year. It appears to me that this provision under consideration will certainly work injustice. Much of our State is but newly settled; and many districts are not able to support a school for more than three months in the year. Yet they need the protecting care of this State as much as—if not more than—those who live in more dense settlements, and can support a school the required time. I would ask gentlemen of this convention to take that matter into consideration. We ought to provide that, notwithstanding they are poor and indigent, and not able to support a district school for six or nine months in the year, their rights shall not be taken from them in consequence of the negligence of the parents, or from any other cause, but that their share of the school fund shall be secured to them, because it is theirs by right. No matter if it must be reserved for years; let them expend it when it has accumulated, and not let those who have greater means take it from them.

This thing is wrong, and must work injustice to the weak and defenceless, those we seek to protect. I would rather take away the restriction entirely, so that all and each of the youths of this State shall have their own due share of this appropriation of the public money; and that the share of each district shall be preserved for that district until it can be expended according to law for the benefit of the children of that district. I move that this whole section, containing the restriction, be stricken out.

The PRESIDENT. There is a motion to amend pending, which takes precedence of the motion to strike out.

Mr. CLARK, of Alamakee. I should most certainly be opposed to striking out of the constitution a provision that would require the districts to keep up an organized school, with competent teachers, for some portion of the year, at least, in order to entitle them to their proportion of the school fund; otherwise there might be a spirit of carelessness and indifference grow up in districts which would lead them to neglect to keep a school for any portion of the year. But on the other hand, I would be opposed to requiring each district to keep up a school for six or nine months in each year, in order to enable them to get any portion of the school fund.

If all our districts were compactly settled, I should have less objection to such a provision. But gentlemen must bear in mind that some portions of our State are not so circumstanced as to enable them to do this. I represent one of the "rural districts;" and in the part of the State from which I came, there are many districts with such sparse population as to require three or four miles in extent to form a district. And with our bad and inclement winters it is almost impossible to have schools during the fall, winter or spring. And if we have a provision here requiring each district to keep up a school six or nine months in the year, it will deprive these districts of the benefits of this school fund, and work a hardship upon them which I do not believe would be right and just.

Mr. ELLS. It strikes me that we should either confine ourselves to a restriction of three months, or strike out the restriction altogether. I know that three months' schooling is better than no schooling at all. In Virginia, when I was a boy, we had only three months' school in the year. We had no school fund from the State; all the fund we had was derived from the fines imposed in the district for fighting and quarrelling. But for that, the poor children of Virginia would be as ignorant as their slaves are.

Mr. SKIFF. I would have some definite time fixed here, as the length of the school which each district should be compelled to keep during the year. I know that in my district they have regularly drawn their share of the school fund every year, but have had no school for some time. From what has been said by the gentleman from Warren, [Mr. Todhunter,] I am almost inclined to withdraw my amendment. I certainly hope the restriction will not be put down below four months. My object in offering the amendment I have submitted, was for the benefit of those new districts in this State which are not able to keep up a school for six months in each year. It is so in my neighborhood; and

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in the western part of the State it is still more difficult to keep up a six months' school.

The question was then taken upon the amendment offered by Mr. Skiff, to strike out "six," and insert "four," and it was not agreed to.

The question then recurred upon the amendment of the committee of the whole, to strike out "three," and insert "six," so as to require at least six months school in each district, to entitle it to any portion of the school fund.

Mr. MARVIN. I would move to strike out of the section before us the words, "The board of education shall provide a system of common schools, by which a school shall be organized and kept in each district at least three months in each year;" and insert in lieu thereof the following sentence: "The legislature shall provide for raising funds sufficient, so that schools shall be kept in each district at least six months in each year, which schools shall be free of charge, and open to all." The section will then read—

"The legislature shall provide for raising funds sufficient, so that schools shall be kept in each district at least six months in each year, which schools shall be free of charge, and open to all. Districts failing to organize, and keep up a school, may be deprived of their portion of the school fund."

My object in offering this amendment is to obviate in part the difficulty the board may be placed in, in regard to raising funds. I would put it in the hands of the legislature to provide the means for the support of these schools, and let the board have the management of the fund.

Mr. TRAER. I desire to offer an amendment to the section; but if the amendment of the committee of the whole is adopted, it will probably prevent me from offering my amendment in the shape in which I desire to present it. I will read it, and if the convention see fit to agree to it, they can refuse to concur in the amendment of the committee of the whole, and then I will offer this. It is to add to section ten the following:

"Provided that not more than one-half of the expense of keeping said school shall be paid from the school fund, the balance to be paid by taxes upon the property of said district."

The section will then read:

"The board of education shall provide a system of common schools, by which a school shall be organized and kept in each district, at least three months in each year. Districts failing to organize and keep up a school, may be deprived of their portion of the school fund; provided that not more than one-half the expense of keeping said school shall be paid by the school fund, the balance to be paid by taxes upon the property of said district."

The PRESIDENT. The chair is of opinion that the amendment of the gentleman from Jones [Mr. Marvin] is not now in order. The question must be taken upon the amendment of the committee of the whole, before the other amendments can be entertained."

Mr. MARVIN. Then before that question is put, I would like to say a word in favor of this six months' restriction. It is possible that three months' school may be better than none at all; but the time has arrived in this country, when it is so nearly nothing, that I think we will not be coming up to the requirements of the age, unless we provide for at least six months' school. It is well known to every man who has children to educate, that if he sends them to school but three months in a year, three-fourths of what they then learn is lost before another three months' school comes round, unless he can take the time to attend to their education himself. I apprehend there are already funds sufficient to keep up a school four or five, or perhaps six months in almost every district in the state.

I am very much in favor of the bill that was before the legislature last winter, providing that the people of the several districts shall be allowed to vote a tax upon themselves to keep up the schools for the required length of time. Without this restriction of six months, one-half of the districts in the state would keep a school for that time; but with it, and a reasonable prospect that the legislature would pass the law to which I have referred, all of them could and would sustain a school for that time during each year. I would be in favor of six months; nothing else will meet the demands of this state, I am very sure. If we are going to have any system of free schools, six months in the year is quite little enough to require the school to be kept.

Mr. HALL. I am very glad to see the strong interest manifested in regard to the length of time that schools should be maintained in the different districts in this state. The length of time—three months—originally provided by this section, was taken from the old constitution, under the impression that perhaps the permanent school fund at present was not sufficient to maintain a school in each district more than three months in each year. It was contemplated that there would be no other means furnished to sustain those schools. It further contemplated, as a penalty for refusing to organize and keep the schools for that length of time, that those districts that failed to do so should forfeit their proportion of the school fund to those districts which do keep up their schools.

Now I will go with the majority of this convention in favor of requiring that there shall be a school kept in each district for six months in each year. But at the same time I did that, I should endeavor to provide the necessary means, and I would make it imperative that the means should be raised to support the schools for that length of time. It would be a matter of grief and mortification to me if I believed that it was impossible for us to have more than three months school in a year, in our different dis-

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tricts. I should despair of the cause of education, for the intelligence of the rising generation, if such was the case. I believe there is public spirit enough in every district in this state, if it can become once fully aroused, to go a great way of itself to organizeand keep up an efficient common school system.

In order to provide the means for keeping these schools for six months in each year, I have drawn up a substitute for this tenth section, which I will offer at the proper time, if it meets the views of this convention. It is as follows:

"The General Assembly, in case the permanent school fund proves inadequate, shall provide for a tax which shall be sufficient to support and maintain a school in each organized school district in this State, for six months in each year."

I am for having substance as well as form. I am for providing the means to do a thing, as well as saying it shall be done. It is efficiency, it is certainty, that gives character to these institutions, and that brings them forward and fully developes them.

Perhaps my feelings would lead me to go farther than most gentlemen here would be willing to go. I believe if a government should be arbitrary, should be thoroughly despotic, upon any one subject, it should be upon the subject of educating the youths of the country. I believe the State has such an interest in the rising generation as to give it the right to provide the means to support schools, and then to compel by law, if necessary, the parents to send their children to school. I know this sentiment is not a popular one, that it would seem to infringe upon some individual rights. But the people at large have an interest in these youths, in my opinion, sufficient to justify even such a measure.

We are in a peculiar position in this State. This measure would not affect the old counties as much as the new counties. We know that a large portion of the land, purchased in this State during the past two or three years, has been purchased by speculators and non-residents for the purpose of benefitting by the advance in its price. And they intend to hold on to that land until they can sell it for five, six, eight or ten dollars an acre. The land thus held by them will be settled slowly. But by this provision the new settlements would be enabled to tax non-residents, and force them to support the schools to educate their children. The districts will necessarily be large, because much of the land in them will be vacant. But by this system they can build up fine school houses, such as the wants of the country require, and such as the comfort and respectability of the schools demand. It opens the doors for all these facilities, and puts the burden upon those who ought to bear it, because the price of their lands is advanced by the introduction of these schools. But this would not hold good in regard to the older counties.

Again there is a pretty general belief, a pretty strong impression, that a school that is free—what I mean by a free school is one that is supported without the aid of the persons sending children to it, or the taxing of the property-holders of the community—a free school does not command that notice and attention which it would if the people were taxed to support it. If a person is taxed twenty, fifty, or one hundred dollars, for the purpose of maintaining a school in his immediate neighborhood, he will be very apt to look to that money, and see thet it is not squandered, but that it is appropriat d to the object and purpose for which it was raised. In this way you call into activity feelings that would otherwise lay dormant. If these schools are given to the people as a boon, they will be slow to take advantage of them. But when they have to contribute to their support, when they have to pay their proportion for the purpose of maintaining them, public sentiment will be roused into looking to the matter, to see that the funds thus raised are applied to the object for which they were intended.

I do not know how many gentlemen here will agree with me; but I do believe if you can mingle taxation with the benevolent funds which Congress has bestowed upon this State, and to which this State has not yet added a dollar; if we can add by taxation an amount to this fund equal to the fund itself, the system of education will receive permanency and efficiency, because those who pay this money will look to see where their money is going, and that it is properly expended and bestowed upon the proper objects, and for the right purpose.

I have felt some diffidence in approaching this subject before this convention. I feel diffident about it now, because heretofore we have all seemed to be laboring under the impression that all these schools would be free; that is, forced upon us—paid for without our contributing anything to their support. We have been looking at these donations from Congress as the means to provide us a system of education; and men have got into the habit of leaning upon this school fund, and looking upon that, and that alone, as the great fountain from which was to be derived the means for the education of the youths of this State.

My honest convictions are, that you ought to unite with this school fund at least an equal amount raised by the people, in order to make them take the proper interest in this matter. Will gentlemen consider for a moment that this subject of education in this State has more money, more means, than any other interest—than all other interests in the State besides? Will they consider that the revenues now being raised for educational purposes, and to be continued and distributed and paid out for purposes of education, are more than for all the other governmental purposes besides? Will they consider that this is the largest and most important interest, in point of fact, that we have in connection with our government as a State? Such is the fact. We have more money pro-

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vided, more revenue raised for school purposes than for any other purpose. And yet that great interest is left dependent upon itself; dependent upon the carelessness and lethargy of those who may, by official position, be connected with the subject, because it is given as a gratuity to the people—because it is a great gift which has been bestowed upon them, and therefore they do not know how to prize it—they do not know what it is worth.

But if you will compel the people themselves to contribute as much to the school fund as has been donated to it by Congress, they will begin to feel and know that it is worth something, and they will look to it that the money is properly expended. You will not then have your school meetings attended by but three or four persons, but they will be crowded, for every man in the community will feel interested in the subject. And hence I think it would be of great service to the cause of education if you could in this constitution establish a system that will lead to these results which I have endeavored to portray.

I do not wish to be understood as pressing my views with unnecessary earnestness upon this convention. If a majority of the convention would be disposed to go with me, I should be in favor of a provision something like that which I have read. But I felt too timid, too uncertain in regard to the feelings of this convention to submit it to the committee which made this report, or even to offer it to the convention until I saw the feeling which has been exhibited here this morning upon this subject.

Mr. CLARK, of Alamakee. If I could believe the arguments of the gentleman from Des Moines, [Mr. Hall], I should be in favor of devoting the school fund to some other purpose than that of supporting common schools. If the fund which has thus been accumulated in this State for the purpose of educating our youth, begets this feeling of indifference in the minds of the people, which the gentleman has stated here, I should be in favor, and I think I should be endeavoring to confer a great blessing upon this State, of sweeping that fund from existence.

But I do not believe that fund has produced any such result. I do not believe the gentleman is correct in the positions he has taken in reference to this subject. I believe that the school fund this State now possesses is a great blessing to the people; that it is, as a general thing, appropriated to the benefit of the people, for the education of their children, and that they feel as much interest in the appropriation of that fund and the benefits that flow from it, as they would if it was obtained directly from their own pockets. I do not think it would make any difference if this money was all paid by the people by direct taxation. If the money for the support of these schools was to be obtained by direct taxation, that very fact would have a tendency to decrease the amount of schooling to be given to our children, because an effort would certainly be made to keep the amount of taxation down to the smallest possible limit. But I do doubt very much that it would render the school system more dear to the people.

If the gentleman is consistent in the position he has laid down here, I can freely call upon him to support an amendment to the proposition he has offered, that the Legislature, after having provided a fund for building school houses, and keeping up a school in each district for six months in the year, shall then pass provisions to compel all parents and guardians of children of five to sixteen or twenty years of age to send them to school for six months each year. Without that addition, his proposition will be an imperfect one.

The PRESIDENT. The proposition of the gentleman from Des Moines, [Mr. Hall,] is not now before the Convention. The question is upon concurring with the amendment of the committee of the whole, to strike out the word "three," and insert the word "six," thus providing that each district shall organize and maintain a school for at least six months in each year.

Mr. CLARK, of Alamakee. Then I would say a few words upon that subject. I am opposed to incorporating a provision in this Constitution requiring a district to keep up a school six months in each year. I am in favor of having a school kept six months or even nine months in each year. Probably nine months in each year is as long as it is profitable to keep up schools. It has been found, by experience, that vacations of a few weeks now and then are beneficial; that pupils will learn more with these intervals of recreation, than if kept at school all the time, because their young minds require occasional relaxation. I am in favor of having school kept in each district as long a time in each year as would be beneficial to the youths to be educated. And while I am in favor of that, I am also in favor of having a system of education introduced here that will conform somewhat to the wants and necessities of the people throughout the State.

The gentleman talks as though the people had no interest in this matter; that unless they are compelled to keep up a school for six months in the year, there would not be any school kept up at all. Now if it is true that the people of this State have no interest in our common schools, and will not keep them up six or nine months a year, when they are able to do it, I would ask, what benefit is this common school fund to them? If they feel no interest in these schools, and will keep them up only as they are compelled to do so, I believe they will derive but little benefit from them. Now I believe that each district will keep up a school within its limits as long a time in the year as their means, and the circumstances in which they are placed, will permit. In many parts of the State they will keep up these schools for six months of the year without any provision upon the subject. Some even would keep up these schools for nine months in

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the year; while, in other portions of the State, it would be impossible to keep up the school for even six months, because there is but one organized township in some of the districts of this State; and to say to them that unless they kept up a school for six months in the year, they should not have their proportion of the school fund, would be virtually saying to them that their school fund should be taken from them and given to those who need it least.

Now I think it is not right to impose this restriction. I am in favor of fixing some time here, say three months, which I think is the most reasonable period of time to require a school to be kept in every district. There is no district but what can keep up a school for three months in the year, if it can keep one at all. I believe if we limit it to that time, we will have provided the means by which each district can reap the benefit of the school fund, while, at the same time, it will be wholly within the power of each district to keep up the school for a longer period than three months, if they should desire to do so.

Mr. TODHUNTER. I would ask the gentleman if a district is capable of keeping up a school for three months in the year, why is it not able to keep it up for six months?

Mr. CLARK, of Alamakee. I know of districts in the western and northern parts of the state, where they have been unable to build school houses. They have procured temporary buildings in which they could keep a school during the summer, but which were totally unfit to use for that purpose during the remainder of the year. It is impossible in these districts to send children in the inclement season of the year great distances to school; and to require people there to send their children during that time of the year, and a long distance to school, in order to get their portion of the school fund, would be working a great hardship and injustice. I am not in favor of such a provision, and I do not believe that any good result will flow from it.

Mr. HARRIS. The gentleman from Des Moines, [Mr. Hall,] says if he would be despotic at all, he would be so upon a question of this kind. I do not believe that we should be despotic at all. This constitution depends entirely upon the will of the people of this state, and if we attempt to force them, in connection with this matter, to adopt certain measures, it will be an effectual means of defeating our object. I know there are a great many who are willing to tax themselves to raise the means to support schools, who are jealous of any interference in this matter on the part of the government I am disposed to leave this matter to the control of those who are to be benefitted by it, and who are particularly and immediately interested in it. But if you attempt to force it upon the people, they will defeat the constitution rather than to submit to what they would consider despotism.

Mr. HALL. Gentlemen seem in regard to this matter of education to be wonderfully afraid of despotism, tyranny and aristocracy. The aristocracy of intellect is the only aristocracy to which I will ever subscribe; and it is one which I will forever worship. Other gentlemen may worship at the mere shrine of dollars and cents as long as they please, but the aristocracy of mind I will forever venerate. If it requires tyranny and despotism in order to give that aristocracy a fair field, I say let us have tyranny and despotism. That aristocracy alone will protect and develope our institutions, for it is upon the intelligence and virtue of the people, that republican institutions depend for their safety and perpetuity. It is the education of the masses for which I am laboring, and I would remove all the shackles that have been heretofore placed upon the cause of education. I would have the government do everything it can do, to carry on the great work of educating the people, as the very existence of the government itself depends upon the intelligence of the people. Is it despotism, then, to require that those who are to come after us, and upon whom the future safety and welfare of our institutions must depend, but who are now merely lisping school-boys, should be educated in such a manner that they may become useful members of the society in which they are soon to take a part?

It is an argument in favor of our system that we make the principle of education universal. If we compel a man who is obtuse in intellect, or who worships at the shrine of base lucre, to send his children to school, when he would otherwise neglect to do it, is that a despotism to be dreaded? It strikes me not. It is the most difficult thing in the world to combat this principle of selfishness. The whole argument against the system of education which I have been contending for in my feeble manner, is based upon the groveling feeling of selfishness. Can a man say that I have only an interest in the education of my own children, and that I ought not to be concerned in regard to the education of the children of others? It strikes me that this is selfishness. True, nature has made me the guardian, and has placed in my bosom for a wise purpose, this disposition to take care of my own; but when I make one step beyond my own threshold, and go out into the broad world, I am just as much interested in having the children of my neighbor educated as my own. We are all just as much interested in having the children of Pottowattamie, Mills, and Fremont counties educated, as we are those of Des Moines and Lee counties, or any other portion of the state, because they are to be the future legislators of the state, and are to have the control of our institutions. And the very protection which the government is to give to life, liberty and property, is to be guaranteed by the intelligence of those who will then be our law makers.

It should be considered a matter of the very highest importance in our government that we

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should rear up those, who are to come after us in such a manner that they will be able to maintain and defend our institutions. It should be the main object of government to give its youth such a training and education, as will enable them to fill the places which their fathers will leave, with honor to themselves and their country; to maintain our institutions free and unimpaired, and to transmit them in turn with all their glorious blessings and privileges to countless generations yet to come.

I do hope that the gentlemen of this convention, in forming the organic law for this State, will endeavor to lay the foundations broad and deep, and not be governed by any selfish and narrow-sighted policy, but look to the interests of future generations. I may say that I will educate my own children, and that the government has no concern in their education. But if I neglect and refuse, through selfish or any other feelings, to obey the dictates and feelings that are planted in a parent's heart for good and wise purposes, it is the duty of the government, as a matter of protection to its own interests, to require that my children shall be educated, because they will at some time leave my protection, and go out into the world. They are not always to be mine, but are to become a part of the government, and a part of the great mass, upon whose virtue and intelligence depends the very existence of the government itself. The government then has a direct property in my children, and the interests and the feelings of the parent, and the interests of the government should harmonise, and nothing but the lowest form of selfishness will prevent them from doing so.

If a parent is able to educate his children, without the aid of the government, he is still interested in having the children of his neighbors, who are to become the associates of his own children, educated in a proper and becoming manner, so that they may exercise the right kind of influence in society, when they shall be called upon to perform the duties of active life. We should not act here as individuals from selfish motives, but we should act upon the great principle of doing what good we can for the advancement, prosperity, and happiness of the whole community.

Mr. GIBSON. It strikes me, that there is really no aristocracy in this measure. If there was, I should certainly be opposed to it. I am opposed to aristocracy, let it come up in whatever shape it may.

I moved in committee of the whole to strike out the word "three" in this section, and insert "six" in its place, and as the motion was carried, I feel under some obligations to state briefly the reasons why I made that motion. First, then, I hold that the State of Iowa owes to the youth within her borders an education, and that the government of the State ought to be held responsible for the means of education, provided there are not other means devised for this purpose. If my property is swept from me, and I am left without a dollar in the world, are my children to grow up in ignorance, and without receiving the advantages of education? If, on the other hand, I am fortunate enough to acquire property, and my neighbor is unfortunate, am I to enjoy the exclusive benefits of my means to educate my children, while my neighbor's children are neglected? We, as individuals composing the State, all owe to the youth within its limits an education, and I for one am not willing to deny it. If any individual in the community where I reside is not able to educate his children, I am willing that my property shall be taxed for the education of his children.

If I understand what aristocracy is, in connection with this matter, it is where the rich have the ascendancy, and where they send their children to school in order to prepare them to become the rulers of this country, while the poor and unfortunate are oppressed and ground down to the dust, brought up without an education, and consequently rendered unfit for high stations. Such is not the case, however, with some of our brightest and most distinguished men, for they have raised themselves to their high positions from obscurity. It does not follow as a necessary consequence, that the son of the rich man has a greater intellect than the son of the poor man. Then, I say if the son of a poor man has intellect, improve it, and bid him God-speed in his progress to honor and distinction.

Mr. PALMER. The more I have examined the plan reported by the committee, the more I am inclined to favor it; and it is with a view of supporting it, and not defeating it, that I rise in opposition to the pending amendment. I think if we load it down with amendments, and impose restrictions of this kind, we may defeat this plan in the convention, if not before the people. It is well known that our taxes are increasing yearly under the present system of government; and, whether it be for educational or for other purposes, if we attempt to increase the taxes, there is danger that we load down this constitution with provisions which may cause its defeat. I believe it is not asked by the friends of this plan that the Board of Education shall have the power of taxation, but that the taxes to be raised for all school purposes shall be raised under the supervision of the General Assembly.

When I first spoke with regard to this system, I said that there appeared to be some provisions in it which might bring the Board of Education into conflict with the General Assembly. If you empower this Board to provide such a system of common schools as requires a greater school revenue than is now provided, you will allow them to form such a system as will require legislation; and in order to carry it out, they will be compelled to increase the taxes. May not the legislature refuse to increase the taxes, after the Board have made provision for a perfect system? That is what I contemplated

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when I said that these two bodies might come in conflict.

The section as originally reported, provided for at least three months school in each district. I believe that the school funds now on hand, and to come in under the present system, would provide sufficient means for three months school in each district, so that we would not be called upon or required to pay an additional tax. But if you increase it to six months, then, in all probability, we may be required to pay an additional tax.

I wish to retain such provisions in this plan as will enable me to sustain it when it comes to a question upon its final passage. I reserve, therefore, the right to vote for or against it, as it may be amended to suit my views.

Mr. GILLASPY. I did not intend to say a word upon this subject, for the very reason that I do not profess to understand what is right and proper upon so important a subject as this. But I cannot see the force or effect of the argument made use of in favor of a six months' school. As I understand it, this school fund does not belong to the adults of this State, at all. It is a fund that belongs exclusively to the children; and, to my mind, it is utterly beyond the action of the convention to undertake to rob the children of a district of their portion of the school fund, if there is not a school taught in it for six months. I know that it is impossible, in a great many unsettled districts in remote portions of the State, to have a school taught for six months. You apply to them the rule here proposed, and you rob the children of these districts forever of their portion of the school fund.

Mr. HALL. The gentleman is mistaken. It is a matter of discretion with the officers who have the management of the fund, whether these districts shall have their portion of the fund or not.

Mr. GILLASPY. In many instances, where they have failed to have a school for three or six months, they have been able, the very next season, to have a school for six months. They have the funds that formerly belonged to them, and they can apply them. If they do not apply them this year, they can apply them the next. But under this rule you take away their portion of the fund from them. I undertake to say that each and every district has a right to their portion of the fund, and to control it in their own way. I am satisfied that the people of the State will take interest enough in the subject of education to have schools taught the proper length of time. I have been looking for a proposition to require each member of the convention to teach a school for six months after he goes home. I believe that the people are competent to regulate this matter for themselves. In the district in which I live, we have a school of six months, and I know of many other districts where they have a school the same length of time.

We all know that broils and quarrels very often arise in the division of districts, which prevent schools from being organized and kept up for six months. Under such a state of things we would deprive them, by the operation of the rule sought to be adopted here, of their portion of the fund. A law-suit may be got up which may last for six months, and consequently during that time there is no school taught. Are you going to rob the children of the district, where such a thing takes place, of their portion of the fund, because their parents get to loggerheads with each other?

I believe the people can take care of this matter themselves, and that they will act properly in regard to it. The children of each district should have the exclusive use of the funds allotted to them, three, six, or nine months in the year, as the various districts may see proper; and if it is found inconvenient in remote and unsettled districts to keep up a school six months in a year, they should not be robbed of their portion of the fund.

The question was then taken, by yeas and nays, upon concurring in the amendment of the committee of the whole to strike out "three" and insert "six," and it was not agreed to; yeas 16, nays 17, as follows:

Yeas—Messrs. Clarke of Henry, Emerson, Gibson, Hall, Johnston, Marvin, Patterson, Peters, Price, Robinson, Skiff, Solomon, Todhunter, Warren, Winchester and Young.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Johnson, Day, Ells, Gillaspy, Gower, Gray, Harris, Hollingsworth, Palmer, Parvin, Scott, Seely, Traer and Wilson.

State University.

The next amendment reported by the committee of the whole was to strike out the eleventh section, which reads as follows:

"The Board of Education shall establish one University, which shall be located at some central point in the State; *Provided*, that until such time as such location may be made and suitable buildings erected, said University shall continue as at present located."

The question was taken and the amendment was concurred in.

The next amendment was to strike out in section twelve the words "belonging to," and insert "deposited in" in lieu thereof, so that the section will read:

"The University lands, and the proceeds thereof, and all moneys deposited in said fund, shall be a permanent fund for the sole use of said University. The interest arising from the same shall be annually appropriated for the support and benefit of said University."

The question was taken and the amendment was concurred in.

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Distribution of Common School Fund.

The next amendment reported by the committee of the whole was to add to section seventeen the following:

"In such manner as may be provided by the General Assembly."

So that the section would read:

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths between the age of five and twenty-one years, in such manner as may be provided by the General Assembly."

The question was taken, and the amendment was concurred in.

Compensation of Members of Board.

The next amendment reported by the committee was in section eighteen, to insert between the words "the" and "Board," the words "members of the;" and also before the word "compensation," strike out "the" and insert "their," so that the section would read:

"The members of the Board of Education shall each receive the same per diem and mileage as their compensation as members of the General Assembly."

The question was taken, and the amendment was concurred in.

The PRESIDENT. The amendments of the committee of the whole are now disposed of, and amendments will now be in order to any of the sections of the article.

Sessions of the Board.

Mr. CLARKE, of Johnson. I move to amend the fifth section so that it will read:

"The session of said Board shall be limited to one session yearly."

I make this motion for this reason; it seems to me that if this board is composed of men of that discretion, judgment and intelligence which are contemplated, and which they ought to possess, there will be no danger of their holding sessions longer than is necessary for the good of this department of the government, and there may be times when they will need longer sessions than twenty days. One of the sections in this report, if I understand it, requires those laws to be passed by a majority of the board. Some occurrence may happen, such as floods and bad travelling, which will prevent the attendance of a majority of the members for the first few days of the session, and therefore it would be necessary to have a longer period for their sessions than twenty days. I think we can trust the members of this board with the question of determining the length of their sessions. I move therefore to strike out the twenty days limitation, leaving the section so that it will provide for one session a year.

Mr. HALL. I do not believe there is any necessity for the adoption of the amendment offered by the gentleman. If any accident or unforeseen event prevents the meeting of the board in time to perform their duties, the Governor can call them together at any time by the provisions of this section. The board, unless they are restricted to some time, might hold too long sessions, and occupy too much time. I think twenty days will afford sufficient time to enable the board to do all their business.

The question was taken upon the amendment offered by Mr. Clarke of Johnson, and it was not agreed to.

Common School System.

Mr. MARVIN. I offer as a substitute for the first two lines of section ten, which read,

"The Board of Education shall provide a system of common schools, by which a school shall be organized and kept in each district at least three months in each year," the following provision:

"And the legislature shall provide for raising funds sufficient so that schools shall be kept in each district at least six months in each year, which schools shall be free of charge and equally open to all."

Mr. GILLASPY. I would suggest to the gentleman that he had better wait until he has got the people to vote upon striking out the word "white" from the constitution, before he puts the children of negroes and mulattoes upon an equality with white children in our schools. I know that the people I represent are opposed to the introduction of any such principle as this into our state; and I only desire to represent the people that sent me here, faithfully and honestly. I will not allow, so far as I am concerned, the question to be presented here, without a notice which I presume will be carried here by a majority of the convention—at this early day, before the people have voted upon the question of striking out the word "white" from the constitution—that the children of the blacks, mulattoes and Indians shall be made equals with the children of the whites, and that they shall come in and mingle together in our common schools. As an individual I am opposed to it, and I trust in God, that I will never see the day, when I shall, by any act of mine, do anything that may, and will ultimately in my judgment, lead to the amalgamation of the black and white races of this country. I am opposed to it, firmly and inflexibly. If the people of this state are disposed to appropriate money for the education of the blacks, let them do it in separate and distinct schools, but I will not have them made equal with my children, and the children of my constituents, who are white and I thank God they are white.

I know that the people of this state are not

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prepared for the introduction of this principle; and I am astonished that the majority upon this floor should undertake to thrust upon the people a measure so obnoxious as this would be, a measure that acknowledges an equality between the black and white races in which I do not believe. From the commencement of the sessions of this convention, this "nigger" question has been lugged in here in fifty different propositions and in fifty different ways. I am apposed to all this. I know the gentleman from Henry (Mr. Clarke) says that I am very fierce upon the scent of the "nigger;" I am no more fierce in that respect than nine-tenths of my constituents, whether they be republicans or democrats. The "nigger" question seems to be a great theme with the majority of this convention, and it was introduced here at a very early period in the sessions of the convention. If tuese gentlemen desire to make provision for the eduction of the children of colored persons, let them do it in a separate proposition and not undertake to make negroes equals, to all intents and purposes, with the whites. They are not by nature equal to the whites, and their children cannot be made equal to my children, or those of my constituents. And, furthermore, I never intend that by any action of this convention, or any other body of men, that they shall be put upon an equality with my children and associate with them in schools, social circle or anywhere else. It never *shall* be done, and I use the word *shall*, which the gentleman from Henry (Mr. Clarke) has used so often in this convention.

I have said all I desire to say upon this subject, and I will now say in conclusion that I shall vote at all times against any proposition placing the colored race upon an equality with the white; and when I say this, I know that I am representing not only the democracy of my district, but a large proportion of the republican party there.

Mr. CLARKE of Johnson. I am surprised at the language of the gentleman. I never dreamed that there was a "nigger in this wood-pile" at all. On the contrary, I think it is a democratic proposition. The gentleman is laboring under a great mistake, for I find in the constitution of Indiana, which was made by a democratic convention, just precisely the provision now introduced here.

Mr. GILLASPY. Will the gentleman from Johnson [Mr. Clarke,] allow me to ask him one question? The gentleman is a constitutional lawyer, we all know. I would ask him, if this provision is adopted here, whether black children would not have a right to be admitted into our common schools.

Mr. CLARKE, of Johnson. I do not think that it would follow as a necessary consequence.

Mr. GILLASPY. Would they not have a legal right to be admitted into our schools?

Mr. CLARKE, of Johnson. I do not think they would have, and I do not think this provision would have the effect of giving them such a right.

But to come back to the constitution of Indiana, made by a democratic convention. The provision which I find upon this subject reads as follows:

"Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement, and to provide by law for *a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.*"

When this constitution was made, I do not suppose that the gentlemen who made it smelt a "nigger," or if they did, democracy then meant a very different thing, from what it does now. I do not see how the provision now introduced here, is going to equalize the black and white races; and I do not think gentlemen need be so much afraid of it. I think the gentleman from Wapello [Mr. Gillaspy,] is a little—I will not say insane, for that would be uncourteous—but a little excited upon this subject. He seems to see and hear "nigger" in every thing here. It was but a few days ago he objected to placing the negro in the front ranks of the army; and I suppose he feels if they are educated that they may be placed in the front ranks of some other department of life, hence he wants to protect them from the evils of education.

While I have no particular feeling upon this subject, I for one will recognize the negro as a part of the human family, made by the Great Father, to whom the negro is responsible for his actions, the same as we are. If we are going into a history of the moral nature of man, I want to find the authority which makes any distinction in the races. Man has made the distinction, but the Great Father of all has never made any. He has given the negro the same mind, and the same moral faculties that He has to the white; and He holds him to the same accountability. I say it is our duty to provide for the education of all classes of people in the State. We are not to sit here and discriminate between people, on account of color, nativity, or any thing else. It does not follow, if you provide that our common schools shall be open to all, that the black and white must associate together.

The negro population of this State is very small, it is true, but they are as much the constituents of the members of this convention, so far as their natural rights are concerned, so far as our duty in protecting them goes, and so far as our duty goes for providing every child in the State with an education, as any other class in this State. I am willing to make some provision by which they shall have that common share of education, which it is necessary they should have, in order to make them good citizens, to enable them to know their rights, and which

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will promote their moral and intellectual welfare.

I wish gentlemen to explain to me how it was, that the democratic constitutional convention of Indiana did not see the great danger of elevating the negro to the same position with the white, and why they did not think of this thing, when they incorporated into their constitution the provision which I have read, and why if it were democratic, then, it is not democratic now. I think that the majority of that convention who adopted this proposition had some regard to human rights, and the duty which the State owed to every portion of her citizens; and that they were not governed or controlled by this miserable feeling of sectionalism, which is displayed here by certain gentlemen, for it is nothing but that. This spirit and feeling is not concurred in by the great mass of the people of the State.

Mr. GILLASPY. Is there not in the constitution of Indiana a provision to prevent negroes from coming into the State?

Mr. CLARKE. There is a constitutional requirement to that effect; but she had negroes in the State at the time this constitutional provision was made, which provides for the education of those who were there at that time. The men of that convention, no matter by what party name they were called, were above these miserable paltry prejudices, and acted for the whole people, without regard to color, class or condition.

Mr. HALL. I regret that this matter has come up here. I know that my friend from Jones, [Mr. Marvin,] is warmly attached to the cause of education, and I know that the cause of education has no warmer friend than that gentleman. I regret, therefore, that he has introduced this proposition here. Whether it does or does not put the Indian and negro races upon an equality with the white, and whether colored children under it could be prevented from attendance upon the common schools, is not a question for discussion at all. It is sufficient for me to say to the gentlemen of this convention upon all sides, that as the proposition now stands, there is not one word including or excluding the negro race from the common schools, and there is no discrimination, so far as this constitution is concerned, made between the negroes and the whites.

It does appear to me that this is sufficient, and that we should stop there. I would be unwilling to put into the constitution, and I would vote at all times against any proposition that should exclude negroes from our schools; nor would I vote for a proposition here that should declare directly that they should have this right. That man, I claim, is unwise who is not willing to yield to the prejudices of the people. No matter how much he may deprecate such prejudices, no matter how deep a mortification he may feel upon this account, still he cannot overcome them. If you incorporate this provision into the constitution, by which if a negro or Indian desired his children to attend a common school in any district in the State, no matter where, he could compel, by a writ of mandamus, the teacher to receive them, and the courts would compel teachers to receive them, it would be going too far; I do not think it is necessary to go to that extent. I think the proposition introduced by the gentleman from Jones, [Mr. Marvin,] is uncalled for, and I appeal to him as a friend of the cause of education, and as one who has the promotion of this cause at heart, to withdraw it.

I think that the section is well enough as it now stands. I do not think that we can gain anything for the cause of education by going to the length which the gentleman proposes. I am willing to agree that the constitution shall make no distinction in this respect; but I am unwilling to introduce an element here which may defeat the passage of this article in the convention, or may defeat the constitution when it shall be submitted to the people for their acceptance. It does appear to me that we ought to let the provision stand as it is reported here; not introduce a principle which goes to the extent of that introduced by the gentleman from Jones, [Mr. Marvin.]

Mr. MARVIN. I feel disposed to make some remarks upon this question; but they shall be very few. I hold, that in this State, every man, woman and child, and especially every white man, has a direct and substantial interest in the education of every child in the State; not for the purpose of placing the colored child upon an equality with themselves, not for the purpose of making them capable of becoming citizens, but a direct interest pecuniarily. Go into a community where a portion of that community are permitted, or rather compelled, to become degraded in their intellectual powers, degraded morally, physically, and in every way; and you will find in that community a class dangerous to your interests, a class which may strike a fatal blow at midnight, a class which may rob you of your treasures and your life. I know of no better way to prevent such a state of things than by giving every child in the State an opportunity to become educated, to learn the principles of our government, the principles of our religion, the principles which are calculated to make men, the principles which are calculated to elevate man into the position which God, in his creation, intended him to fill. I hold that we might, with equal, nay greater, propriety, say that our school houses should not be contaminated with that blacker stain of immorality, and exclude those young persons who are so immoral in their course of life that it is contamination for our children to come into contact with them. I know that our schools are, to a great extent, dangerous schools, because they open the door to all classes; but that contamination which comes from a depraved morality, I dread far more than the contamination which arises only from a dark complexion. I have never experienced any difficulty from the intro-

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duction of colored children into common schools. To get what little knowledge I have, I sat side by side in the same school house with blacks, and I never heard it complained of. It is a common thing in New York. But if the districts are any of them so tenacious of their prejudices that they cannot consent to this, they can do as the professors of religion do in many of the churches—have a side pew for them. But by all that is dear to us, let us educate every human being within our reach. Let us prepare them all to become citizens. Let us prepare them to act the part, whatever it may be, which is assigned them for after life.

Can it be possible that, in this age of the world, and in this enlightened and free Iowa, we are to travel back and refuse to make provisions by which all shall be educated? I feel that it is our duty to lift from degradation every class of men which we may have among us, needing our assistance. It is necessary for our own interest, and for our own safety; and it will enable us to answer, I trust, with a good conscience, before God. While I feel deeply in the cause of education, because I feel the want of it, I believe that my tongue shall cleave to the roof of my mouth and my right hand forget her cunning, before I shall forget to put forth every effort in a proper place to elevate all God's creation. When you ask me to say that they shall not have equal privileges in learning to read of the God who created them, and the Savior who died for their salvation, you ask me to do that which my religion forbids me to do.

Mr. SKIFF. I only desire to say, in explanation of my position, that I do not wish nor desire to exclude this race. I am perfectly willing that provision should be made for their education, but I wish it to be separate and distinct from the whites. If the proposition of the gentleman is open to amendment, I will move to amend by inserting, after the word "all," the words "white children;" and, upon that, I call for the yeas and nays.

Mr. CLARKE, of Henry. I do not feel myself able this morning to enter fully into this debate; but still I cannot refrain from saying a few words upon this question. I listened to the argument of the gentleman from Des Moines, [Mr. Hall,] this morning, and while he stood there talking upon this subject of education and all its great interests, I could but admire the ease and freedom with which he expressed his whole soul, and the eloquence, with which he dwelt upon this subject. I could not help contrasting the efforts of the gentleman in this behalf with those other efforts of his, where he has seemed to be struggling with his prejudices as a buffalo would struggle within the folds of the anaconda. When the gentleman expressed the sentiment here that there was one aristocracy which he worshiped—the aristocracy of intellect—I could not help having a pang pass through me, and I thought, how long will it be before that awful prejudice of his will come in and again set him to struggling? How long will it be before he will want to make one exception in favor of white children? I wish the gentleman did truly worship intellect. I wish he did truly reverence the soul. I wish he could throw aside those shackles binding his efforts here in the true cause of humanity and human rights. I wish he could throw himself freely into the promotion of the best interests of all God's creatures, and not be compelled to cramp himself within those narrow limits where one with so large a soul as his, by nature, feels himself a slave indeed.

The remarks of the gentleman from Wapello, [Mr. Gillaspy,] in regard to putting the "nigger" children of the country upon an equality with his children, I expected from him. They are in keeping with other remarks he has made here. They grow, I believe, out of a mere prejudice on his part. We are not legislating or arguing for any equality so far as social, moral or intellectual nature is concerned. We are merely declaring what the political rights of all men are. We are declaring that this school system has its very soul and life in being open to all alike. And yet the gentleman rises and attempts to demonstrate that because, in carrying out that principle, colored children are permitted to go into our schools, we should throw it aside. Now shall we admit this exception to the great principle? It is striking at the very foundation—at the very heart of the common school system. That system has been built up on the great idea of opening the schools to all classes. It has become what it is from the very fact that it is a common school system, common to all, free to all. The gentleman seems to think that if we permit all to participate in these blessings, and enjoy an education through aid of these schools, it will put them into such a position that his own children cannot claim to have any superiority at all—that they will all be upon a perfect equality. I do not know how far the gentleman's children may be entitled to the worship of the gentleman from Des Moines, [Mr. Hall.] I do not know how far elevated they are above those, who may be of a darker hue, in intellectual endowment. But the gentleman may be well assured that it will not alter their position a single iota, if we pass the amendment as offered by the gentleman from Jones, [Mr. Marvin.] It will be merely saying to the colored child what you say to the German child—to the child of the catholic and the child of the protestant—to the child of every human being—these schools are open for you; come in and participate in the blessing. It does not affect their social position or standing or equality in any way. It is simply like a great charity, open to all. If the gentleman, during this cold winter, had thrown open his doors, had spread upon his board food for the hungry, and had prepared clothes for the naked; if he had said: come all you who are hungry and want food—all you who are naked and want clothing, come and partake; would the gentleman suppose that, if some poor son of Africa should come forward to partake of his benefaction, that would be placing him

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upon a perfect equality with the whites who might equally share his bounty? Would he want to say, in extending his invitation: come, all white people who may need food, or who may need clothing?

I believe the gentleman has told us that in his youth he used to play with the sons of Africa.

Mr. GILLASPY. That was the gentleman from Lucas, [Mr. Edwards.]

Mr. CLARKE, of Henry. I thnk the gentleman from Wapello told us the same thing. At any rate, I presume the gentleman would have no objection at all to have one beside him upon the ceach box driving his carriage; he would not object to allowing one to put a handkerchief about his neck, set him in the right position upon an easy chair, take him by the nose and remove from his face the exuberance of his beard; he would not object to allowing him to come with a white apron behind his chair at the table, asking him what he will be helped to, placing it upon his plate, or to removing his plate to get him another wiped by his own hand; no objection at all to that. I need not go further in saying what he would not object to, the gentleman having informed us that there is but one of that race in his community. But I will say that all these are mere prejudices. They are urged here as mere prejudices, without any reason at all. There has not been a word from a single man here, to show us any reason which really exists for making any such distinction. There is a sort of idle dream that somewhere in this great republic there is a feeling which would keep them out and deprive them of education; one after another catches the idea, and every man thinks that some how or other he is to be tainted, and there is to be a prejudice against him, unless he joins in the hue and cry against anything like doing justice towards that portio of the human race. It is unmanly. It is ungenerous. It is unchristian. It is uncalled for by any reason. You need not be afraid to trust this state upon a perfectly free constitution. You need not be afraid to open your doors to a perfect political equality. You need not be afraid to open your school-houses to all. You may do everything to remove all restrictions, and leave them perfectly free to rise to the highest point God originally designed them to reach. You need not be afraid that amalgamation will follow from this. It is idle; it is foolish. It is the degradation of the negro which leads to amalgamation. I have been in the slave states. I have been upon the plantations of Mississippi and Alabama. I have been a way up in the backwoods upon the Yazoo river, upon plantations scarcely visited by white men once in a year, where they raise their cotton crops, and ship them annually to New Orleans, where there is but one overseer to a plantation, and the master is hardly ever there, but receives his cotton crops, and disposes of them in New Orleans, and uses the money either there or at the watering places. Yet go upon one of those plantations, where there is a white man for the overseer, look around among the negro quarters, and there, if you want to see amalgamation, is the place to find it. It is the institution of slavery which is the great parent of amalgamation. Gentlemen need not fear it from those opposed to that institution. Gentlemen need not attempt by the cry of amalgamation to silence those who stand up battling, not merely for the rights of negroes, but for the rights of Germans, of Irish, of Catholics, of all God's human creation; whatever their race, whatever their creed. Sir, I scorn it. It is simply throw in for the purpose of raising prejudice against persons who stand here the most free, the most liberal, the most democratic, the most republican. Gentlemen call us abolitionists. When have I said a word here in regard to abolition? When have I said anything in regard to touching the institution of slavery beyond the constitution and constitutional privileges? When have any of us stood up here and uttered a tirade against it, as something we were determined to lay our hands upon, or to use any other power than moral power and intellectual power to effect? Gentlemen are ungenerous, they are unkind when they come in here with these accusations, and these assertions. I am no more an abolitionist than gentlemen who came to Iowa to enjoy the privileges of our free institutions and to escape from the curse of slavery in their native land: not a whit more.

Mr. GILLASPY. I call the gentleman to order. I have not used the word "abolitionists."

Mr. CLARKE, of Henry. The word has been used here frequently. I say that we stand here, not as abolitionists, not as advocates for the negro, not as justifiers of the negro, not as attempting to substantiate that they are equal to the whites in any particular. We do not think that necessary. It is not in our province. It does not belong to us. But we stand here upon eternal principles and rights. When you talk about a common school system with exceptions, you might as well carry your exceptions so far as to exclude all but Protestants, or all but native Americans, as to exclude all but white people. As I have said before, I am not satisfied with anything short of what is exactly right, and cannot therefore be satisfied with taking away from our common school system that principle from which it derives its name. I do not ask who is affected. I stand for the right because it is right. It is right, if we are to have a common school system, that it should be a common school system, common and free to all.

Mr. HALL moved to lay the amendment on the table.

The question being then taken by yeas and nays, upon the motion to lay upon the table, it was agreed to, yeas 23; nays 10, as follows:

Yeas.—The President, Messrs. Clark, of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Hollingsworth, John-

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ston, Palmer, Patterson, Peters, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Warren and Winchester.

Nays.—Messrs. Bunker, Clarke, of Henry. Clarke, of Johnson, Cotton, Ells, Gray, Marvin, Parvin, Traer, Wilson and Young.

On motion of Mr. WARREN,

The convention took a recess until 2 P. M.

EVENING SESSION.

The convention reassembled at 2 P. M., and were called to order by the President.

The consideration of the report of the committee on education and school lands was resumed.

Mr. ELLS moved to amend section ten so that it would read:

"The board of education shall provide for the education of all the youth of the state through a system of common schools, by which a school shall be organized and kept in each district at least three months in each year."

Mr. HALL. Did the gentleman intend to leave out the other line,—"Any district failing to organize and keep up a school, may be deprived of their portion of the school fund"?

Mr. ELLS. I did intend to omit that. It was at the suggestion of several friends.

Mr. HALL. I object to that, because it rather gives a bounty to districts not to have their schools, if they are not to lose anything by it. I think we should provide that if they do not keep the schools they shall lose the public money. I would have this held *in terrorem* over them. If they lose nothing by their neglect, they will have no inducement to open the schools. I do not think this would ever be exercised improperly.

Upon this amendment—

Mr. GILLASPY called for the yeas and nays, which were ordered.

Mr. SKIFF. I prefer the entire section; and I move to amend the amendment by adding as follows:

"Any district failing to organize and keep up a school, may be deprived of their portion of the school fund."

Mr. ELLS. I will accept of that as a modification of my amendment, if there is no objection. I am satisfied with it.

Mr. GOWER. I would like to offer an amendment to that, so that if any district shall fail for two years to organize and keep up a school, they shall lose the school fund after two years. I ask that the new districts may have two years to supply themselves with houses, to organize, and to procure regular teachers. That seems to me no more than is reasonable. I have seen the operation of forming new districts; and the effect of the clause in our old constitution upon them. One district not sufficiently prepared for everything to go on harmoniously would lose its share of the fund, while a more populous or wealthy district would enjoy it. I think we can allow them two years to make preparation, without any detriment to any one. I move to insert in the last clause of this section the words "for two consecutive years."

Mr. SCOTT. I feel hardly qualified to urge my own particular and peculiar views in regard to this matter upon members of the convention; but I must beg leave to differ with them and I believe I have good reasons for differing with them. I believe that this last clause should be left entirely out. There are a great many contingencies which may arise in the management of this school fund which I believe will justify the striking out of this clause. For instance, a new district is formed, consisting of forty or fifty pupils, and the fund accruing to them would be somewhere in the neighborhood of a dollar for each pupil, or fifty dollars for that district. Now under the present arrangement it is necessary to organize and keep up a school for three months the very first year after the district is laid off, or else they cannot draw the money. Now it is well known to members of this convention that as a general thing a district thus laid off has no school house; and it is well known too that it is not always in the power of the district to build a school house the first year. In a great many districts, one and a half cents upon the dollar, upon the taxable property of the school districts, the greatest amount you can raise by taxation, would be insufficient to build a school house. So they must devote their whole tax for two years in succession in order to accomplish the object. The first year they barely build the house; the second year they complete the house; and having appropriated all their funds to building the house, they find it too burthensome that same year to open and support a school. Gentlemen will see that the newly organized districts need this fund more than any other portion of the State. They labor under great disadvantages in paying this heavy tax to build the school house; and then we threaten to take away the school fund from them if they do not keep up the school three months in the year, when in fact they may not have been able to complete a house in which to keep the school, and are thus deprived of the school fund. I assert that this is wrong.

There is another reason which I have to give which I think will make it appear very clearly to to the minds of members of this convention why this is wrong. It is taking away from a portion of the youth of this State and giving to another portion of the youth of the State without any cause. Gentlemen say that if the districts are so negligent or so careless about having a school that they will not organize and hold a school three months in the year, they are not entitled to the benefit of the fund. I claim that this is a wrong principle, because it is not the negligence of the pupils. It is not their dereliction from

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duty. It is no fault of theirs. It is the negligence of the parents or guardians of the children. It is the negligence perhaps of the directors of the districts. It is a negligence not only not emanating from these pupils or resting upon them, but entirely out of their power to control. It appears to me like visiting the iniquities of the fathers upon the children, to say that the child shall be deprived of his share of the school fund, not from any fault or lack of his own, but because his parents or his guardians have neglected to organize a school and keep it open for three months in the year. The parents are at fault and we disfranchise the children. This ought not to be done. If the recipient of the favor could by any act of his own deny himself the right, if he could disfranchise himself, then I might admit that it would be just and proper that he should suffer the consequences. But by no act of his own can the child refuse to receive that boon from the State. The forfeiture is on account of the action or the negligence of a party with whom he has no connection by his own consent. Because another party fails to meet the intents of the law, his right to this boon is wrested from him.

If gentlemen would look upon this thing from that point of view, I think they would agree with me that it is not right that in consequence of the negligence of persons over whom they have no control, any party should suffer loss. The pupils have no agency in this neglect, and they have therefore a right to the fund. If other individuals are neglectful, those children ought not to suffer for it. There are a great many contingencies which may arise, besides negligences, to prevent the organization of a school at as early a period as would be desirable. There may be some little defect in the organization of the convention. The matter may be thrown into court, and it may be kept there two or three years before it can be adjudicated upon. Now shall the children of that district be deprived of the benefit of this school fund in consequence of the wilful stubbornness, if you please, of those who live in that district. The fund does not belong to the parents at all. It is not given for their benefit, and they ought not to have the power to wrest it from those for whom it is designed. They ought not to have the power to snatch it from those to whom it has been bequeathed without their consent. It is the neglect of the parents which this clause would visit upon the heads of the pupils.

Mr. GIBSON. I would ask it there is any such question before the Convention?

Mr. SCOTT. The question is upon the motion of the gentleman from Cedar, [Mr. Gower,] that if a district neglects for two years to organize and keep up a school for three months in each year, it shall not draw from the school fund. That I understand to be the motion before the convention; and my remarks bear directly upon that point. It can make no difference in the principle whether the number of years of neglect is two, five, ten, or twenty; or whether the school is kept up three, six, or any other number of months. I believe that the principle is founded upon wrong, and that it is unjust and oppressive.

It may be said that if this fund goes on accumulating, parties may wish to keep the fund from being expended in the district to which it really and properly belongs, and thus there is a fund created which may not accrue directly and immediately to the supply of the wants of the rising generation. But whether it is directly and immediately available or not, the fund is theirs, and I am willing that if they will not spend it this year nor the next year, that they shall have it to spend the year following. Let them be their own judges at what time and under what circumstances the expenditure of this fund will be the most serviceable to them. It is theirs by right. It is bequeathed to them. It is a legacy to them; and we have no right to wrest from them that legacy. We have no right, even in consequence of any negligence or fault of theirs, to snatch from them the legacy so gratuitously given by our General Government to them. I hope that gentlemen will take this view of it; and if they do, I believe they can vote in no other way than with me upon this motion, and upon every motion of this character. Let no such restriction be placed upon the enjoyment of this fund.

Gentlemen say that it is setting a bad example, and taking away the terror of the loss of this money. There is no terror connected with the loss of this money. It does not operate in the districts as the gentlemen suppose that it will. The expectation of receiving this fund is not the great incentive which organizes and keeps up the school system. And whatever the rule may be in relation to it, if the school was to be kept open six months instead of three, or the districts would lose the fund, I do not think it would ever be taken into consideration at all. I say, let us "do right, though the heavens fall." Let us hold no lash over any one. Let us do that which is perfectly right, honest, and just. Let us not take this legacy from the children on account of any dereliction of duty upon the part of the parents, guardians, or overseers of the school system. The fund belongs to the children, and let us not take it from them.

Mr. HALL. I ask the gentleman from Clayton [Mr. Scott] to look at the amendment a moment, and he will see that it simply confers the power to deprive the district of the school fund; it is not obligatory that they shall be deprived of it; but leaves the question to the discretion of the proper officers of the government, who have the control of this fund.

Mr. SCOTT. I understand that; but it is giving a power which ought not to be given—the power to do a wrong. I am fearful of giving to the legislature the power to do that which is wrong. It is not right to give the privilege to do wrong. It is not right to grant the privilege to others to do that which we ourselves know to be morally wrong. The legisla-

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ture may act discreetly. They may never exercise this prerogative. They may take the matter into wise consideration. They may never exercise the power which we grant them. But that will not excuse us, if we allow the legislature to do that which we know to be morally wrong.

Mr. HALL. I think a clause of this kind is necessary. We have all read the fable of the dog in the manger. The gentleman——

Mr. ELLS. If the gentleman will give way a moment, I will accept the amendment of the gentleman from Cedar. [Mr. Gower.]

Mr. GILLASPY moved to strike out "youths" and insert "white children."

The amendment, if so amended, would read:

"The Board of Education shall provide for the education of all the white children of the State through a system of common schools, by which a school shall be organized and kept in each district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, shall be deprived of their portion of the school fund."

Mr. SOLOMON. I cannot see any great objection to the amendment of my friend from Wapello, [Mr. Gillaspy.] The present condition of this question in the convention with regard to colored people, seems to be this: There seems to be a proposition now before us, which will probably be adopted, judging from the expressions I have heard here, leaving it to the people to decide whether the adjective "white" shall be stricken out wherever it occurs in the constitution, or not. The main object of those who desire to have it stricken out, I understand to be to clothe the negro with the right of suffrage, and of holding office; to give to him that which is the substratum of all substantial political rights. Now, I am free to say, that if that qualification be removed in that respect by the people of the State of Iowa, it should be removed in every other respect. I should be opposed to having in our community any one clothed with the rights of citizenship, the privileges and immunities of the elective franchise, who would not have all the rights of citizens. I wish to be understood. I am opposed to clothing colored persons with this privilege, and think that this is doing them no injustice. They are not now residents of our State, as a general thing. We have but very few of them, and those that have come here, have come without any inducement or expectation that this privilege would be given them. We take nothing from them. But if the people so decide at the ballot-box, in voting upon this question, that the negro shall not have the right of suffrage, I think this should go with it; and if they decide the other way, I would let this go with the balance. If we are to have a negro or streaky constitution, let us have it. If it is right and correct to have the word "white" anywhere, I do not see any objection to placing it here.

Mr. WILSON. It seems to me that gentlemen are too sensitive, that the gentleman from Wapello [Mr. Gillaspy,] is decidedly too sensitive upon this subject. I am satisfied, and think every gentleman of the convention would be satisfied, from the reading of the substitute proposed to be amended, that the legislature may exercise its discretion in the formation of schools in this State. According to the provisions of the substitute, they are to provide for the education of all the youths of the State through a system of common schools. Under that they may sever the whites from the blacks. They may make provision for the education of the blacks in schools by themselves, and for the education of the whites in schools by themselves; or in districts where the people desire it, they may provide for their education in the same school. It seems to me to be going altogether too far to say that the blacks or mulattoes of this State shall be cut off entirely from education. There are negroes and mulattoes in this State who own property, who are taxed for school purposes, who are taxed for all the purposes of our State government. After having imposed upon them this obligation, and this taxation, it seems to me that it is asking too much of them to ask that they shall forego all the privileges of education, to say nothing of their absolute right to it. I hold, to the fullest extent, to the doctrine advanced by the gentleman from Des Moines, [Mr. Hall,] that every human being is entitled to an education. I believe that doctrine is true. But I do not wish to place this constitution in such a shape that the children of the gentleman from Wapello shall necessarily sit side by side with the children of a black man. I am willing to leave that open, and let the legislature determine it.

But I will never vote to keep the colored children out of the schools altogether, so that the children of the black, the mulatto, or of any other race of men, shall be deprived of the benefits of education. It makes no difference, so far as regards this question, whether the blacks are clothed with the right of suffrage or not. We all have an interest, whether we give them that right or not, in the intelligence of that race. An intelligent negro is certainly preferable to an ignorant one. The gentleman from Wapello, residing in the county seat of that county, if they are to have negroes in the town in which he resides, would certainly prefer that they should be intelligent rather than that they should be debased and ignorant. Why then should we not confer this right? Why not leave it open? Why not give the legislature not only the power to tax them, but to confer upon them an education? I hope that amendment will not be adopted.

Mr. GILLASPY. I do not know that it is the province of the gentleman from Jefferson [Mr. Wilson,] to undertake to direct me in my movements here. I alone am responsible for them, not the gentleman from Jefferson, nor his constituents. We voted down a similar proposition to this, just before we adjourned. And I un-

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dertake to say here, without the fear of successful contradiction, that if you adopt this principle, notwithstanding the denial of gentlemen here, it will lead to amalgamation. Put your white children in the country, upon an equality with the negro, in the schools or the social circle, and I undertake to say that it is the very thing to lead to amalgamation. Teach them that the colored population are just as good as they are by nature, and equal in every sense of the word, and that s the inevitable consequence. All children play together; but I venture the assertion that if the gentleman should find his children in the negro quarters of the town or city where he resides, he would be one of the first to take them away, and say to them—you must not go there; you must play with the white children. Why would he do it? He does not desire to have it inculcated upon his children from childhood up that the negroes are as good as they are. I wish the republican members upon this floor would come out, and meet these questions directly, so that the country might understand them; but it is always brought in here covered up.

I have not said or undertaken to say here, anything upon political questions; but I have no doubt that this whole thing is well understood not only by members upon this floor, but through the whole state. It was charged in the last campaign throughout this entire state that the new-fangled party in this country was the old whig party tied on to the abolition party of this state, that we had here a few years ago, and of which the gentleman from Johnson, [Mr. Clarke] was an elector. It was denied on all hands by everybody. I venture to say there are sixteen, twenty, or twenty-five thousand voters of that class in the state to-day. The gentleman from Henry [Mr. Clarke] represents a large portion of that class; and unless the party in the majority here will show their hands, and show that they are in favor of extending the rights which the others have been claiming for years gone by, they will sever themselves from the present republican party and set up for themselves as they did before, when there was a whig as well as a democratic party. I believe this whole thing, this clause in the right of suffrage, and all the agitation upon that question, is intended for no other purpose under Heaven than to hold fast that abolition party, and to open in this state questions upon that subject. I hope the majority upon this floor, who have the power to pass these provisions, will come out flat footed and say directly what they mean; so that they shall not have the opportunity hereafter to look back at the records and say, "I didn't mean that; I meant something else," in one neighborhood, while they whisper in the ears of others, "This means exactly what you want."

I am willing to confess here that I am "sensitive" upon this subject; and I am proud to say that I represent a constituency which feels with regard to it in the same way that I do. Gentlemen have said that which carried with it the implication that 'the gentleman from Wapello' had said upon this floor, by word, or act, or vote, that he was in favor of excluding negroes from the privileges of education. I have said no such thing. I am perfectly willing that the state of Iowa to-day should make separate and distinct provisions, or should give the legislature the right to do it, for their education. But so far as I can prevent it, they shall not be educated under the same roof, side by side with my children, or with the other white children of this state. I believe it would be wrong. I am as much opposed to ignorance as the gentleman from Jefferson, [Mr. Wilson.] And I presume I know more about it than he, having had greater experience in relation to it than he has had. But I am not willing that the children of the negro, or mulatto, or Indian, whom he and his party have provided for here, shall come into our schools as the equals of the children of my constituents, or the children of the white people anywhere in this state. I am perfectly willing that gentlemen should think I am sensitive upon this point. I am glad that I am. The gentleman from Henry [Mr. Clarke] said the other day that the time would come when I would not be. I have only to say to him in reply to that, that if his party in this state have to wait till I advocate the doctrine endorsed by him, they have a long time to wait, in my judgment. All I have now to ask is a direct vote upon my proposition. And if gentlemen do not vote it down I hope they will say boldly and explicitly that this is for the white children, and that they are not trying to lug in the negro here. Let them say which side of the question they take, and it is all I ask.

Mr. CLARKE of Johnson. I have not sought, thus far in the convention, to introduce political subjects or to discuss political questions. I am not very particular what charges are brought against me out upon the stump. When gentlemen undertake to play the demagogue, and to misrepresent my positions, upon the stump, I am not uneasy; but when in a convention like this any gentleman charges me with being an abolitionist, I undertake to say that he charges that which is not true, and what, if he had examined the subject with ordinary care he would have known not to be true.

Mr. GILLASPY. Was not the gentleman an elector of the abolition party?

Mr. CLARKE continued: It does very well for demagogues upon the stump to impose upon the people by this cry of abolitionism, and this cry of niggerism, and all those epithets of passion and of prejudice, which are the common stock and common capital of some gentlemens not only upon this floor but elsewhere. Now I undertake to say that if that gentleman know, the meaning of the English language—he has said that he has had great experience in ignorance, and it may be true—he knows that it is untrue that the party in Iowa with which I have been connected has ever deserved the name

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of the abolition party. The old free-soil party of this state, I say to-day, never occupied or held a position not now occupied and recognized by the republican party of this State and Union. They never have advocated negro suffrage or negro equality; and the gentleman knows it, if he is an intelligent man and has informed himself as he ought to have done before undertaking to talk here upon this subject. I beg leave to call the attention of the republican party of this convention to the appeals of the gentleman and his arguments. What are they? Are they based upon reason, founded upon truth, or are they the veriest appeals we have had to prejudice in the convention? Does the gentleman say he is willing to put a clause in the constitution refusing to give to any of God's creatures living upon our soil, an education? Dare he come forward and say that he will advocate a clause prohibiting the negro from having the advantage of an education? I undertake to say that he dare not assume that position. Is he willing to say that any other class of men, not belonging to the Anglo-Saxon race, shall be excluded from the privileges of education? I undertake to say that he will not dare to do it. Neither he nor his party will be willing to occupy so humiliating a position. Why then this constant snarling and whining, this constant attempt to misrepresent the majority upon this floor? When the people come to examine these debates, when they come to read the speeches of members, they will find that that gentleman has had more to do and more to say upon this negro question than any other man upon this floor. He has let no occasion pass when he could drag it in. He has let no time go by, when he could throw it into the teeth of the majority upon this floor, for the mere purpose of creating prejudice in the minds of the people in advance, against the action of this convention.

I say to the republican members, if this is wrong in principle, not right that we should secure to every one of God's creatures on our soil, the right to an education, vote this down; but if it is right, and if it is our duty to provide here for the protetion of the natural rights of all men, then it is our duty to do it here, and to do it manfully and boldly. I, for one, am willing to take the consequences. I do not sit here to give votes which will procure me popularity among the people. I do not sit here to vote in such a way that I can excuse every act I do: but to vote according to the dictates of my own judgment, with the lights that are before me. If the people complain, I will take the consequences. The people may condemn the action of the majority upon this floor. They may strike us down. But if they do, when I am on my back I want to have the consolation of lifting my eyes to Heaven and feeling that I have done my duty to my God and to my country. For one, I am willing to take the responsibility of my vote, in spite of the sneers and taunts of the gentleman from Wapello.

Mr. EDWARDS. It appears to me that some gentlemen over the way are in the habit of putting on their magnifying glasses, and making a mountain out of a mole-hill. The amendment proposed by the gentleman from Scott [Mr. Ells,] is copied, I believe, from the Constitution of Indiana. Robert Dale Owen is the author of that article in the Constitution of Indiana, one of the old democrats of the State, and a man who is an ornament to society and to the country. There is not another free State in the Union that is so much slave-ridden as the State of Indiana. I think that the Democratic party have, by a large majority, affirmed the proposition contained in the amendment of the gentleman from Scott. It was left to the sensitive gentlemen from Wapello [Mr. Gillaspy,] and from Mills [Mr. Solomon,] to discern that there was a "nigger in the wood pile" here. If it had not been for their delicate powers of perception, I venture to say that the people of the State never would have thought that such a thing was intended. Society would regulate itself; especially in a State like ours, where there are not more than three hundred negroes or mulattoes in the State. There is no danger, unless a man chooses to bring himself down and make a negro of himself, that there can be any system of amalgamation carried on here. The gentleman has a very flippant way of trying to make it go out before the world that we are attempting to make the negro better than the white man. It is beyond our power to do it. God has made the distinction, and whatever the distinction may be in color, wherever the two races may exist, it will regulate itself. Go into this community and you will find here castes of Irish and Germans. You find them associating together, and not intermingling with other classes. So you will find the negroes, or any other race of human beings, let them be cast where they will, as a general rule they will always associate with those of their own class and race. Neither the gentleman, nor I, nor any person, nor all the people of the State, could compel any man who did not desire to put himself upon an equality with the negroes, to become their equal. I take it for granted that this Board of Education, or whoever may have the control of the matter under the law, will regulate this matter without any difficulty.

There is no question in the world that presents so many inconsistencies as this Slavery question. I have no doubt that any one who has ever been in a slave State, and who has visited the various churches, has seen the efforts made by ministers of the gospel for the purpose of raising money to send missionaries into foreign countries, with what zeal their efforts have been put forth to send abroad these missionaries, and especially to Africa, for the purpose of educating, civilizing, and christianizing this unfortunate race of people. The slaveholders are raising money for the purpose of sending missionaries to Africa and other portions of the globe, to every race of the human family, and at the same time in every slave State in the Union

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they have a penal code which makes it an offence for any man to be found engaged in educating that unfortunate race of beings. How inconsistent, to bind the shackles upon four millions of human beings, and use every effort, by the most rigid penal code, to prevent their receiving an education here in our own land, and at the same time to raise money to send over to Africa to pay for educating that branch of the same human family over there! How inconsistent men are upon this subject.

The gentlemen over the way are more sensitive in regard to the negro than any men I have ever seen in my life; a great deal more so than the slaveholders themselves. They make a great ado about this matter, as if the three hundred negroes and mulattoes in the State of Iowa were to take possession of the State and demolish it at once. A few years ago our country was engaged in a deadly conflict with England. You recollect that at the battle of New Orleans, General Jackson issued his proclamation and raised a regiment of negroes to aid us in repelling the British. And what did he say in that proclamation? Did he call upon the colored men to fight for the liberty which our country so bountifully affords to all beneath its flag? He told them that with the exception of the chief regimental officers, they should have the privilege of electing all their officers; and that their color should be no prejudice against them, if they would act as valiant soldiers. This is all filed in the archives of the government. Who was it that fired the first gun at Bunker Hill? A colored man. Men in the slave States, who own slaves, do not turn up their noses with the contemptuous snarl of the gentlemen over the way. The gentlemen have forgotten that in Virginia the F. F. V.'s have their blood coursing in the veins of the African race. Last fall, William C. Preston, a gentleman with whom I was a classmate in college, made a speech over in Chicago, in which he poured out his anathemas very much as the gentleman from Wapello has done, against this race as so inferior to the white man, that it was necessary they should be kept in bondage. The next day a man with the intellect and powers of a man, replied to him, and saw Mr. Preston standing in the crowd. In regard to that point in the argument, he said to him, "Sir, if your argument is true, that we are to be kept in bondage because we are an inferior race, let me tell you that there are colored men standing in this audience who have the blood of the Prestons and the Breckenridges coursing in their veins; and if you defend the system of enslaving them, you uphold the atrocious system of enslaving your own country people. The principle which the gentleman advocates, and the efforts he makes, instead of elevating the character of man, tend to degrade humanity lower and lower."

But it appears to me that we are taking unnecessary trouble in relation to this matter. If the gentlemen from Mills and Wapello had not smelt a negro here, I think this might have passed off smoothly, and in the practical operations of this, under the law, there would have been no difficulty, no obstacle in the way of meeting the wishes of all.

Mr. HALL. I regret that this matter has found its way into this subject. I committed myself the very first days of the session that I would vote against any distinction upon this question. I asserted it over again to-day. I was willing to leave the question entirely open, and I hope the Convention will take that course. I do not see any objection to the amendment presented by the gentleman from Scott, except a verbal one; and if gentlemen are in favor of it, I have not the least objection in the world to their having it. I have, no doubt, different views from some gentlemen upon the question; it would be strange if I had not; but I believe this: if the negroes and Indians are permitted to live and settte in Iowa, the first thing I want to have done is to take them and educate them. I would force education upon them; because they are not fit to be here without some education. I would be the tyrant over them in that respect; but, at the same time, I would never listen to a proposition to insert in our Constitution anything by which that class of people could force themselves into schools designed exclusively for the education of white people. That is as far as I would go. I would not fix it and make it a matter of arbitrary right upon the part of that class to have a position in the schools where the white children are educated, but I would see to it that they are educated. I would do so much justice to them, and so much justice to the whites. However desirable it is to have them educated separately, I am unwilling to vote for the gentleman's amendment.

There is a word or two in the main proposition to amend which I should wish to change. I would make two sentences in the place of one; for it is now, I think, a rather mixed up affair. I would strike out "by which," and commence a new sentence there. And it would suit me better to strike out "common," before "schools," so as to read, "a system of schools." It amounts to precisely the same thing. As to the amendment immediately before us, nobody objects to these negroes living in our State; indeed it is understood that it is to be permitted. If so, they should have the benefits of education and learning. The gentleman from Jefferson, [Mr. Wilson,] speaks most truly when he says that it is infinitely better for the whites in this State that every human being within our borders should receive an education; and I am satisfied that there is no hostility in that course.

Mr. PARVIN. It is well known that, under our present Constitution, a law has been enacted by which the blacks and mulattoes have been excluded from our schools. Not one of them is allowed to enter the school room for any purpose whatever. At the commencement of this session I introduced a resolution requesting the committee on education and school lands to inquire into the expediency of making a provision

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for the education of the blacks and mulattoes. You will recollect that upon the very first introduction of that resolution, merely inquiring into the expediency of the thing, the resolution was attacked by gentlemen upon this floor, who took the ground that they would have no distinction between white and black, but that my resolution contemplated legislating especially for the blacks. The gentleman from Wapello, [Mr. Gillaspy,] stands upon the record as voting against that resolution, upon the assertion that he would make no distinction.

Now I ask if the gentleman's amendment does not make a distinction. His amendment now will contradict the record of his vote given upon my resolution at the commencement of the session. The gentleman from Des Moines [Mr. Hall,] took the ground then, with the gentleman from Wapello, and continues to stand by it. And I ask those who voted with the gentleman from Wapello upon that occasion to vote against his amendment now, and vote for the amendment of the gentleman from Scott, [Mr. Ells,] which makes no distinction whatever. I voted this forenoon for the amendment of the gentleman from Jones, [Mr. Marvin,] and I will say that that amendment showed that he has a soul and a heart in the right place. Deny a man because his skin is colored, the education which raises a man above a brute? Deny him the privilege of reading his Bible? No, sir; never. I do not know what effect those remarks had upon others, but to me they seemed right to the point. Nor do I intend by these remarks to censure the gentleman from Wapello, or any other gentlemen taking the ground that they do not want their children educated in schools open to the blacks. I voted for that amendment of my friend from Jones, [Mr. Marvin,] believing that under it, as under this provision, the legislature would merely be bound to make provision for the education of all without distinction of color. I think the law would better be in this way: in districts where the whites are willing that the colored children should be educated in the same schools, let them come in; but in cases where there is so much prejudice that they prefer that they shall be educated in a separate place, let that be required; but by all means give them that education which every human being has a right to. It is our duty to do this not only with regard to the rights of the blacks, but our duty, for ourselves, to educate every man who is to remain in this State. If you will examine the statistics of our penitentiaries throughout the country, you will find that there are two classes of men generally who people those institutions, and those two classes are the same in every civilized community. They are the ignorant and the intemperate; and generally they go together. Deprive any class in our community of the right of receiving an education, and they will grow up amongst us fit subjects for our penitentiaries and our alms-houses. Educate them, by all means.

Another difficulty we may find, and I alluded to it in some remarks I made a few days ago. If there were but two classes, the African and the Anglo Saxon, they could be easily distinguished. But we have all colors from white to black. When will you make the distinction. Will you drive the young man who has but one tenth African blood, and the other nine-tenths Anglo-Saxon, away from your schools, and put them with the wholly black, the pure African? You do him injustice. And if you attempt to draw the line so as to make him an exception, where will you make the distinction? Take a child who is half blood, and he will have just as good a right in one school as in the other. It is just as much a wrong to him to place him with the blacks, as it is to the white, to place him with them. He must not go and sit with the white children for fear of contamination.

So, here you do injustice, whichever way you decide. I taught school many years before I came here. I was raised in a free State. I have spent some years in a slave State since that time. I feel proud to-day that I can stand here and say that I have taught negroes—that I have taught them in a school with the whites! I am proud to boast of it here that I took as much pains with them as I did with the white children. I recollect that, in a school I taught once, they were admitted, and no person in the neighborhood, in that county, thought it was wrong. The colored children were there; it was necessary to educate them; so they sent them to school; and I, as the teacher, took as much pains with them as with the whites. I taught a school after I came west. A young man, just about half blood, I should think, by the great name of James Madison, came to me and wanted to attend my school. I told him that I was willing, so far as I was concerned. He came, I believe, for two days. It then became apparent that the mass of the people in that neighborhood were opposed to his being in the school. As I was a stranger there, and not able to fight the whole neighborhood, I dismissed the young man; told him that he could not come; and I had to tell him the reason. He went away crying. If I were placed in that situation now, I should stand against the neighborhood. I would teach the boy, and let all the rest leave, if they chose. I did not stand in such a position that I could do it then. I did not then care what they thought, but I had not the means to stand independent. When a gentleman stated to-day that he had been whipped many times for treating the blacks as he could find an opportunity, I honored the man for it. This prejudice goes too far. We are certainly too sensitive upon this subject. As I have said, this amendment only fixes one thing: that the legislature shall not drive them from the free schools. They shall have the rights and advantages of other scholars. But the legislature may provide that they shall be educated separately. I have no objection to that. The assumption of prejudices, where they may not exist, I think is wrong. When I see those very gentlemen, who opposed the resolution of mine, upon the very

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ground that they would make no distinction, coming forward now and taking the initiative in making a distinction, I say that they are now standing in a position contrary to that which they occupied at the commencement of the session, as will be seen by the record of that debate. I hope gentlemen will reconsider this matter, and that all who voted against my resolution with the intention of making no distinction, will now adhere to that determination and refuse to vote for the motion of the gentleman from Wapello, [Mr. Gillaspy], to put in the word "white."

Mr. MARVIN. I believe there is a disposition upon this floor to rather compromise the difficulties that seem to surround this article upon the subject of education, and to come together and adopt the main features of it. I offered a proposition this morning which was voted down, and I submitted with a good grace to it. I cannot discover but what the proposition of the gentleman from Scott, [Mr. Ells,] is of the same nature; but whether it be so or not, I do not wish to discuss it, for I do not believe any practical good will result from any farther discussion on this subject. I therefore call for the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was upon the motion of Mr. Gillaspy to strike out the word "youths," and insert the words "white children," so that the provision would read:

"The board of education shall provide for the education of all *white* children of the state, through a system of common schools, &c."

Upon this question

The yeas and nays were demanded, and ordered accordingly.

The question being then taken, by yeas and nays, the amendment to the amendment was not agreed to, yeas 10, nays 22, as follows:

Yeas.—Messrs. Day, Emerson, Gibson, Gillaspy, Palmer, Patterson, Peters, Price, Robinson and Solomon.

Nays.—The President, Messrs. Bunker, Clark, of Alamakee, Clarke, of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hall, Hollingsworth, Marvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Before the vote was announced,

Mr. CLARKE, of Johnson, moved a call of the convention.

The PRESIDENT. Such a motion is not now in order, according to the following standing rule, number thirteen;

"The previous question shall be put in this form—"shall the main question now be put." It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate, and bring the convention to a direct vote upon amendments reported by a committee, if any, then upon pending amendments and then upon the main question, and prior to demanding the same, a call of the convention shall be in order, *but after a majority shall have demanded such motion, no call shall be in order prior to the discussion of the main question.*"

Mr. CLARKE, of Johnson. There are some members absent whom I would like to have vote on this question.

The amendment of Mr. Gillaspy was declared rejected.

The question then recurred upon the following substitute for section ten, offered by Mr. Ells:

"The board of education shall provide for the education of all the youths of the state, through a system of common schools, by which a school shall be organized and kept in each district for at least three months in each year. Any district failing for two consecutive years to organize and keep a school, shall be deprived of their portion of the school fund."

Upon this question

The yeas and nays were called, and ordered accordingly.

The question was then taken, by yeas and nays, upon the substitute, and it was agreed to, yeas 22, nays 10, as follows:

Yeas.—The President, Messrs. Ayres, Bunker, Clark, of Alamakee, Clarke of Henry, Clarke, of Johnson, Edwards, Ells, Gower, Gray, Hall, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays.—Messrs. Day, Emerson, Gibson, Gillaspy, Palmer, Patterson, Peters, Price, Robinson and Solomon.

When his name was called,

Mr. SCOTT said: I will vote for this amendment, as I concur in all of it, except the two years' restriction. But being satisfied that it is the best we can do, I shall vote in favor of it.

School Chancellor.

Mr. HALL. I move to strike out section nine, as I do not think it is important to have it.

The section reads as follows:

"Said Board may appoint a Chancellor, who shall have jurisdiction over all questions that may arise under the laws, rules and regulations of the Board, and from all decisions and judgments of said Chancellor, an appeal may be taken to the Supreme Court."

The question being taken on the motion to strike out, it was agreed to.

Rules and Regulations of the Board.

Mr. HALL. I move to amend section eight by adding to it the following:

"Provided that all acts, rules and regulations

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of said board, may be altered, amended or repealed by the general assembly."

The section would then read as follows:

"Said board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university fund of the state; Provided that all acts, rules and regulations of said board may be altered, amended, or repealed by the general assembly."

The question being taken, the amendment was agreed to.

Power of the Governor in the Board.

Mr. HALL. I offer the following as an additional section, to come in immediately after section eight:

"The sessions of the board shall not be held during the time that the general assembly are in session. The governor shall attend the sessions of the board; he may take part in their deliberations and discussions, but shall have no vote; he may exercise a veto upon all acts, rules and regulations passed by the board in the same manner as provided for acts of the general assembly."

Mr. ELLS. I would suggest to the gentleman from Des Moines to change the word "shall," to "may," so that it would read, "the Governor *may* attend the sessions of the board, &c."

Mr. HALL. I will accept the suggestion.

Mr. GOWER. I would ask if the veto of the governor is to be a three-fourths or a two-thirds veto?

Mr. HALL. The same as in case of acts of the general assembly,—a two-thirds veto.

The question being taken upon the amendment, it was agreed to.

Location of State University.

Mr. CLARKE, of Johnson. I offer the following as an additional section:

"The State University shall consist of a single institution, and be permanently located at Iowa City. The present State Capitol, with such improvements and additions as may be provided for by law, shall be occupied by the State University, when not used by the State for other purposes."

I desire to say a few words upon the subject of this proposition, though I am well aware that what I may say will be subjected to the charge of being interested. It is a well and old settled idea in the public mind that when the seat of government shall be removed from this city, the building we now occupy is to be used for the purposes of the State University. I think that, such being the case, this convention ought to have no hesitation in settling the question of its permanent location.

It is a State institution, in which the whole State is interested. And I think this body will reflect as well the interests of the people as their wishes upon this subject, if we will settle this question now. We are, perhaps, more aloof from such influences which usually affect such questions as this, than any other body which can be convened in this State.

This proposition has reference, not only to the location of the State University, but to keeping it a separate and single institution; to prevent the establishment of numerous branches, division of its fund, which has been attempted in almost every general assembly we have had in this State, and the success of which measure was only prevented, during the last session of our general assembly, by the exercise of the veto power. It is my desire and object to take from the legislature the power to trifle with this institution and its funds, as they have heretofore been trifled with. Local combinations and local interests have been used for electioneering efforts in relation to this institution, and the munificent funds given by Congress have been in danger of division and loss.

I trust that gentlemen who profess to have the cause of education so much at heart, will look to the interests of this University, and seek to use the most efficient means to build up in this State an institution which will be an honor to the State, and which will acquire a reputation abroad, which will increase from year to year as the State itself increases and prospers. I trust they will look at this question aside from all local feelings.

I know that some members are opposed to the proposition I have offered, for fear it will make votes against the constitution. But to my mind there is no reason to apprehend any such result as that. I think that by adopting this provision no votes will be made against the constitution; and not only that, but the taking this subject away from the legislature will rather have the effect of bringing up votes to the support of the constitution.

I would not urge this proposition, if I thought there was any serious intention in the public mind to locate this University at any other place than the one I have named; or even if I supposed that the members of this convention thought so. But I believe there is no such impression in the minds of members of this convention; no such intention in the minds of the people of this State at large. It is true this institution is now located by law at this point, and with that the people whom I represent upon this floor might be content. But it is my object to make this location permanent; to take out of the power of the legislature not only to change the location of the University, but to trifle with its fund, and to divert it to any other purpose except the founding and carrying on this University, as was the intention of those who made this grant.

I ask gentlemen to look at the important bearing this subject has upon the whole cause of education in this State, and the necessity of our

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laying the foundation of this institution so deep and broad that it will ultimately be an honor and ornament to the State. I entertain these views upon this question, not because I happen to represent the people of Iowa City and Johnson county; not because this institution is now located in my district; but because it is to the interest of this State that this convention should settle this institution and its character, and make such provision in the constitution as will prevent any future log-rolling efforts to divide and divert this fund.

Mr. WINCHESTER. I do not rise for the purpose of charging the gentleman from Johnson [Mr. Clarke,] with acting from interested motives. I have no doubt his motives are all pure. But I object to his proposition principally for the reason that it sets a bad precedent here. I made the motion on yesterday to strike this very proposition from the article on miscellaneous subjects, because I did not think this convention should have anything to do with a movement of this kind.

If we proceed now to locate the State University at Iowa City, members from different portions of the State may get up here, and claim that we have the right, and should locate all the charitable institutions of this State at some point or other, and then proceed to urge the claims of the particular localities in which they are interested.

I do not object to this proposition because I think it will make votes against the constitution; I do not think such will be the case. But if other questions of this character are brought up here, which we have the same right to dispose of, and if they should be acted upon by this convention, I believe we would lose votes for the constitution. I, therefore, hope this proposition will not be adopted.

Mr. TODHUNTER. If the gentleman from Johnson [Mr. Clarke,] will so modify his proposition, as to provide that the University shall be one entire and distinct institution, without providing that it shall be located at Iowa City, or at any other place in particular, I will support it. But I am opposed to providing in the constitution for the location of this University at Iowa City. I am somewhat like my friend from Hardin, [Mr. Winchester.] I am fearful of this matter; it is purely a legislative question, a merely local question. And if we introduce it into the constitution, we may endanger its adoption.

But at the same time it appears to me that there should be some provision in the constitution specifying that this University shall be an entire and single institution; that the legislature shall not have the power to divide or divert the fund from its proper uses. If the gentleman from Johnson will so modify his proposition as to make it embrace only those provisions I will support it cheerfully. But I am opposed to locating that, or any other institution by constitutional provisions. I would oppose the location of the Capitol by a constitutional provision.

It is generally understood, all over the State I think, that the University will be permitted to remain at Iowa City, and that the present Capitol building will be devoted to the use of the University, while the seat of government is to be fixed at Fort Des Moines. That, I believe, is the general understanding now. I think it would be a dangerous precedent for us to undertake to locate any of these institutions at this time. I, therefore, hope this provision will not be adopted.

Mr. SKIFF. I offer the following as a substitute for the proposition of the gentleman from Johnson, [Mr. Clarke]:

"The State University shall consist of a single institution, and be permanently located at one place, which place shall be on some part of the five sections of land belonging to the State of Iowa, in Jasper county, granted to the State by act of Congress, for a State Capitol."

I will state briefly my object in offering this substitute. It is well known to every member of this convention that this State owns five sections of land in one compact body, in the southern part of Jasper county. And I can assure the convention that there is no better land in the State of Iowa than that is. Upon this land the State can locate this University, and have sufficient for a model farm to be connected with this institution. They can sell land enough in the way of building lots to furnish the means to pay for a better building than this one can ever be, one better adapted to the wants of a University than we can ever make this. The position, as regards the people of the State, is fully as central as is Iowa City. And if this capitol building was not already built, nobody would think of locating the State University here.

The location which I advocate is away from all the great public thoroughfares; I know of no great thoroughfare that is proposed to be run through this land. This I consider a great advantage, for no great institution of learning ought to be in an extensive business, or densely populated community. The State can have all the advantage of building up there a community, such as perhaps could not be built up in any other part of the State. Those men will be most likely to settle about this University who are interested in matters of science and learning. And the community thus built up will most probably be one in favor of education and kindred matters.

In saying this I do not wish to be understood as in the least disparaging the people of Iowa City. But they came here from different motives from those which would probably actuate those who would congregate about this University, if it should be located where I have indicated. Many of them came here because the State Capitol was located here. And without saying anything against my friend from Johnson, [Mr. Clarke,] it is but natural to suppose that

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those who are brought here by the inducements held out by State offices, and things of that kind, are not the best class of persons among whom to locate the State University. They were brought here from other motives than because this was to be a centre of literary pursuits.

I think if this proposition I have submitted, or something like it, should prevail in this convention, the building in which we are now assembled could be used for some other purpose, and a building for a State University could be built where I have indicated to accommodate all the various branches of this University, and would be fully as convenient, and better adapted to the wants, of all parts of the State, as this place.

Mr. PARVIN. I would enquire of the gentleman from Jasper [Mr. Skiff,] if the place to which he refers was formerly known by the name of Monroe City?

Mr. SKIFF. Yes, sir.

Mr. PARVIN. Could a common stage driver be able to find it without the assistance of a surveyor? (Laughter.)

Mr. SKIFF. I think it is quite likely that he could. (Laughter.) I understand the gentleman is a surveyor, and if it was necessary, I think he could get the job of locating it.

Mr. EDWARDS moved to lay the whole subject upon the table.

Upon this—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon the motion to lay on the table, it was not agreed to; yeas 14, nays 20, as follows:

Yeas—Messrs. Clarke of Henry, Edwards, Ells, Gower, Hall, Hollingsworth, Johnston, Marvin, Patterson, Price, Seely, Traer, Winchester and Young.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Johnson, Day, Emerson, Gibson, Gillaspy, Gray, Harris, Palmer, Parvin, Peters, Robinson, Scott, Skiff, Solomon, Todhunter, Warren and Wilson.

The question recurred upon the substitute proposed by Mr. Skiff.

Mr. GIBSON. If this institution of the State University is to be located at any place by a constitutional provision, I should decidedly favor the proposition of the gentleman from Jasper, [Mr. Skiff] But I have some doubts whether it would be proper for this convention to fix, permanently, the location of this institution. I do not know what is the feeling of this convention upon that subject. The arguments in favor of such a course are numerous and strong.

As to the locality named by the gentleman from Jasper, [Mr. Skiff,] there is probably no better in the State. As all here are aware, commissioners were appointed by the legislature of this State to examine the public lands in this State, and select a suitable amount for the purpose of erecting suitable buildings for the capital of Iowa. After a considerable time spent in the discharge of their duties, they fixed upon this tract of land as the proper place for the capital of this State, and by this time there would doubtless have been a thriving city there, but for an act of the next legislature annulling that selection, or rather the location of the capitol upon the lands so selected.

The lands thus located are perhaps not surpassed by any other lands in the State. They are composed of beautiful, high, dry, rolling prairie lands, conveniently situated to timber, stone and coal. And if these five sections of land should be appropriated by the State for the purpose of building up a State University, they could not fail to produce funds sufficient to build up a fine institution there. It is near the geographical center of the State, and would, of course, accommodate much better the great body of the people of the State, than they would be accommodated if the University should be located at Iowa City. And, besides, the system of internal improvements in this State is such that that place could more conveniently be reached from all portions of this State than this place ever can be. Although I am not aware of any great thoroughfare running immediately through that place, yet, at the same time, the principal thoroughfares of the State run conveniently enough to it for all practical purposes.

Besides, it is an entirely new place; and if this institution is located there, it can be built up entirely with a view to educational purposes. It seems to me that an institution of this character ought not to be located in a commercial or manufacturing city, but should be located in a quiet, rural place, where those influences felt in large cities would not be brought to bear upon the students. I have not a word to say against Iowa City. It is, doubtless, as good as other cities. But it is a well-known fact that cities situated like this and other cities, are productive of influences to which parents, as a general thing, would not desire to have their children exposed. As I have before remarked, if this institution were to be located at the point designated by the gentleman from Jasper, [Mr. Skiff,] these lands would be purchased by persons with a view to building up and establishing an institution of learning there, and not for the purpose of building up a commercial or manufacturing city. And certainly that would offer greater inducements to parents to send their children there than if the institution were differently located.

The fund which would no doubt arise from the sale of these lands would be amply sufficient, in the course of a few years, if properly managed, to build up a very fine institution—an institution that would be far better than this capitol building would be. It might not cost more money than this did, but it would be better, because it would be built with a view to the wants

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of the University, which certainly was not the case with this building.

Now, if the University is permanently located here, it must of necessity require a great deal of money to change and alter this building in order to make it a convenient building for a State University.

If it should be deemed advisable by this convention to fix the site of the State University at some particular place, I shall be in favor of the point mentioned in this substitute. But I should like to see tested in some way or other, the question whether it is the desire of this convention to locate the University by a provision in this constitution.

Mr. SKIFF. With the permission of the convention, I would withdraw the substitute I have offered.

No objection being made, the substitute was withdrawn.

The question recurred upon the additional section proposed by Mr. Clarke, of Johnson.

Mr. TODHUNTER. I move to amend the section by striking out the words, "and be permanently located at Iowa City. The present State Capitol, with such improvements and additions as may be provided for by law, shall be occupied by the State University, when not used by the State for other purposes."

The section will then read—

"The State University shall consist of a single institution."

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken by yeas and nays, upon the amendment to the amendment, it was agreed to; yeas 18, nays 14, as follows:

Yeas—Messrs. Clark, of Alamakee, Day, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Patterson, Price, Robinson, Scott, Seely, Solomon, Todhunter, Wilson, Winchester, and Young.

Nays—The President, Messrs. Bunker, Clarke of Henry, Clarke, of Johnson, Emerson, Gower, Gray, Hollingsworth, Palmer, Parvin, Peters, Skiff, Traer, and Warren.

The question recurred upon the amendment as amended, and being taken, it was agreed to.

Taxes for Schools and School Houses.

Mr. PALMER. I offer the following as an additional section:

"The General Assembly shall provide, by general laws, for the levying and collecting of all taxes, for the support of schools, and for the building and renting of school houses."

The object of this provision is, to have a clear and distinct declaration of the extent of the jurisdiction of the General Assembly over the subject of schools, and to define more distinctly the extent of the jurisdiction of the board of education. This provision limits the power of the General Assembly to the raising and distributing of the school fund, while the board of education is to have legislative power over the school system.

Mr. HALL. It seems to me that this matter stands now precisely as the gentleman from Davis, [Mr. Palmer,] says he desires to have it. In some parts of the State it will be necessary to raise a very heavy tax for the purpose of building school houses, while, in other parts, but little tax will be needed, and no general and uniform law can be passed which will operate justly to effect the object designed. I think this matter should be left without any provision in the Constitution; we should allow it to be acted upon by the Legislature as exigencies may require. We have not innovated upon the jurisdiction of the Legislature; it is left the same as before. I doubt the propriety of this amendment.

Mr. SOLOMON. I move to amend the amendment by adding to it the words "but the property of colored persons shall not be taxed for such purposes." The section will then read:

"The General Assembly shall provide, by general laws, for the levying and collecting of all taxes for the support of schools, and for the building and renting of school houses; but the property of colored persons shall not be taxed for such purposes."

I want to say, in explanation of this amendment, that when I voted here for the exclusion of persons of color from our schools, I voted with the express understanding that it was my wish, and the wish of my constituents, not in any way to have anything to do with persons of color as citizens of this State. That proposition struck at what some persons on this floor considered privileges which should be extended to these colored persons. I offer this amendment to show that I do not wish, and would not for a moment permit—and I know that my constituents do not desire—that a single dollar of money shall go into the school fund that has been obtained by taxes upon this class of people. I do not wish to have any connection with them one way or the other. I would not allow their property to be taxed for governmental, or any other purpose at all. I wish this Constitution, in all its parts, to show that this State is a State for white men; that the privileges established here are for white men, and that we do not intend to have any of its support to come from black men.

Mr. CLARK, of Alamakee. When this State is made a State of white men, I want it to show that it is a State also of white minds. I am tired of hearing this subject of the negro continually harped upon. If there are men in this Convention who have become reduced so low that they have no capital but black capital, I think they are getting to be nearly bankrupt, and the sooner they invest their means in other matters, the better will it be for the business of the Convention.

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The question being then taken upon the amendment to the amendment, it was rejected.

The question being then taken upon the amendment, it was also rejected.

Mr. PALMER. I offer the following as an additional section:

"The board of education shall have no power to levy or collect any taxes for the support of schools, or the erection or renting of school houses."

Mr. HALL. I would suggest to the gentleman from Davis [Mr. Palmer,] to modify his amendment by striking out the words "or collect any," so that the amendment shall read—

"The Board of Education shall have no power to levy taxes for the support of schools, or the erection or renting of school houses."

If they levy no taxes, there will be none for them to collect.

Mr. PALMER. I will accept the amendment.

The question being then taken on the amendment as modified, it was agreed to.

Students in Common Schools.

Mr. SCOTT. I desire to offer an amendment to what was the seventeenth section in the original report. That section reads as follows:

"The money subject to the support and maintainance of Common Schools shall be distributed to the districts in proportion to the number of *unmdrried* youths, between the ages of five and twenty-one years."

I move to strike out the word "unmarried," so that it will read, "in proportion to the number of youths between the ages of five and twenty-one years." I suppose it is hardly necessary for me to state my reasons for offering this amendment. Yet I will say a few words upon it. There are those in this State under the age of twenty-one years who are married, and yet need the benefit of these schools in regard to which we are acting, as much as those who are unmarried. There are many who are guilty of committing matrimony—if gentlemen choose to consider that act guilty—who ought to go to school. And I am not in favor of depriving them of the benefit of this school fund in the same way after they are married, as they were able to do before. If my bachelor friends in this convention consider it an indiscretion to marry young, I hope they will not entail upon those who may be guilty of that indiscretion the penalty of being deprived of the opportunity of obtaining an education. Whether it be an indiscretion or not, I think that those who are guilty of it are the proper persons to judge, and not members of this convention, some of whom know nothing experimentally about the matter. [Laughter.] And yet by this section we do certainly say, that we will punish these youths, provided they are guilty of forming matrimonial engagements contrary to our notions of right and propriety. In this section as it now stands we do say that we are proper judges of the age at which to form matrimonial alliances, and that, so far as in our power lies, we will deprive all who may enter into the marriage covenant, before we consider them old enough, of all the benefits and privileges of this school fund, and deprive them of this boon so liberally bestowed upon the youths of our land.

Any person under twenty-one years of age is still young, and in a condition when he should receive, or have the opportunity to receive, the benefits of our common schools. And for that very reason I say that we ought to bestow this boon as liberally upon all, whether married or unmarried, as it was designed to be bestowed. We ought not to disfranchise any one, and take away their rights in this respect entirely, because they have seen fit to get married. Gentlemen may smile as if I was personally interested in this matter. I am not now personally interested in the removal of this restriction. But I have seen the time when the precious boon of a common school was bestowed upon me with advantage, after I was married, and before I was of age. [Contined laughter.] That is so, gentlemen; and I would bestow this boon upon all, wherever they may be, notwithstanding, as gentlemen here may suppose, they may have been guilty of the indiscretion of marrying before they have attained their majority. I would bestow this privilege upon every individual until he was twenty one years of age, married or not. That is his look-out, not ours. I think I am right in this; and I believe if gentlemen will but take the proper view of this subject they will see that I am right.

Married or unmarried? What is the difference? They need the benefit of our school system; they need the advantage to be derived from the expenditure of this fund so munificently bestowed by Congress. And shall we deny it to them when they need it? I hope every gentleman here will support my proposition to remove this restriction as something that is unnecessary and uncalled for, because it disfranchises a portion of our community, who certainly ought not to be disfranchised.

Mr. HARRIS. I have no desire to debate this question. But having suggested this provision I will say that I was led to do so, from having known a case similar to what the gentleman from Clayton, [Mr. Scott,] has represented to have been his own In most cases persons have reached their majority before they are married. And yet I have seen quite serious difficulties arise in school districts in consequence of cases similar to that which the gentleman has stated to have been his own case, when the school commissioners were not so well acquainted with the law as they ought to have been. And I think it necessary to have this provision here in order to cut off all difficulties of this kind.

Mr. CLARK, of Alamakee. I am in favor of striking out this word "unmarried." as otherwise we would be offering a reward for celibacy. [Laughter.]

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The question being taken upon striking out the word "unmarried," it was agreed to.

Powers of the Board of Education.

Mr. CLARKE, of Henry. There was an amendment adopted a few moments since, on motion of the gentleman from Davis, [Mr. Palmer,] in regard to the power of the board of education to levy taxes for the support of schools, and the erecting and creating of school houses. I think there is a great necessity of some amendment here in order to define in some way what shall be the powers of this board of education. I am disposed therefore, to offer a substitute for a portion of this report, in order to accomplish that purpose. From the disposition of this convention, as shown by the votes taken here, I am rather inclined to think my substitute will not prevail. But I wish myself, and I know there are others here who wish the same, to stand right upon the record in regard to this question.

I feel as though we were inaugurating in our State an entirely independent branch of government. I feel that in clothing this board of education with constitutional powers, we are inaugurating a department of the government which, sooner or later, will come in conflict with our legislative department. I am so certain of this that I do not wish to be considered for one moment as consenting to the incorporation of this article in our constitution as it now stands. I therefore offer the following as a substitute for the first nine sections of this article:

"Section 1. The General Assembly shall provide for the election or appointment of a Board of Education, who shall be the Trustees of the University, and shall have charge and control of education in the State. They shall have power to appoint a Secretary of the Board who shall be their executive agent, and perform such duties as may be imposed upon him by the Board of Education or the laws of the State. The powers and duties of such Board and Trustees, and their terms of office and compensation shall be prescribed by law."

The sections proposed to be stricken out, are as follows:

Section 1. The educational interests of the state, to include common schools and other educational institutions, shall be under the management and control of a Board of Education, which shall consist of one member from each judicial district.

Sec. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and been one year a resident of the state.

Sec. 3. One member of said educational board s all be chosen by the qualified electors of each district, and shall hold his office for the term of four years, and after the first election under this constitution, the board shall be divided by lot into two equal classes, and the seats of the first class shall be vacated after the expiration of two years, and one-half of the board shall be chosen every two years thereafter.

Sec. 4. The first session of the board of education shall be held at the seat of government, after which, said board may fix the time and place of meeting.

Sec. 5 The session of said board shall be limited to twenty days, and but one session shall be held in one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session; and each member of said board shall perform such duties in the district in which he is elected as superintendent of schools, as may be required by law.

Sec. 6. The board of education shall organize by appointing from their body a presiding officer, and the appointment of a secretary and other necessary officers. They shall keep and publish a journal of their proceedings, which shall be distributed in the same manner as the journals of the general assembly.

Sec. 7. All rules and regulations made by said board, shall be published and distributed to the several counties, townships and such school districts as may be provided for by said board, and when so passed, published and distributed, they shall have the force and effect of law.

Sec. 8. Said board shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university funds of the state; Provided, that all acts, rules and regulations may be altered, amended or repealed by the general assembly.

Sec. 9. The sessions of the board shall not be held during the time that the general assembly are in session. The governor may attend the sessions of the board; he may take part in their deliberations and discussions, but shall have no vote; he may exercise a veto upon all acts, rules and regulations passed by the board, in the same manner as provided for acts of the general assembly.

Mr. CLARKE, of Henry. I propose merely to introduce a different system here, by which the board of education shall be made entirely a creature of, and subordinate to, the legislature and clothed with such power, as shall be given it by the legislature. Gentlemen will at once see the difference between the two systems. In the first place, gentlemen must recollect that if we create by this constitution a board of education, as a department separate and distinct from the legislature, they will have powers co-extensive with those of the legislature. It is provided here, it is true, that the governor shall attend at the meetings of the board, that he shall have the veto power, and that the legislature may repeal the laws which may be passed by the board. But at the same time you must recollect that we have provided

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that the board shall not sit while the legislature is in session, and we have also provided in the article upon the legislative department, that the legislature shall hold only biennial sessions. What kind of system are we going to have here? Are we not creating a board clothed with legislative powers? The governor may attend at their meetings, it is true, and they may go on and pass a code of laws, establish in one portion of the state an academy, a polytechnic school in another, and a normal school in another. Clothed with these powers they may go on for two years, and then the legislature may come together, and if the people have become dissatisfied with the action of the board, they will have the power of repealing their acts entirely. Gentlemen who suppose that all this while things will go on smoothly, and that the two departments of government will not come into conflict with each other, are greatly mistaken. Every member here who supports the provision for making this board separate and distinct from the legislature, will regret that he ever did it.

This whole thing in regard to the creation of this board, clothing them with powers and prescribing their duties, can and will be attended to by the legislature. Gentlemen have complained here that the legislature has done nothing for the cause of common schools. But by adopting the substitute I have offered here, you make it their duty, and you oblige them to act upon this matter. The legislature will be obliged to organize this board of education. Then they can say what duties they shall be required to perform, what powers they shall have; and the board of education then will be acting under laws which can at any session be altered or repealed, and they can go no further than the people of the state through their legislature say they shall go.

Again, suppose the system which you have now prepared, in committee of the whole,—I must say with very little deliberation and very little discussion, although some may think there has been a good deal—is set in operation in this State, and you find, after a while, that it does not operate as you intended it should. And suppose, too, that you find that the board are exercising powers which you never dreamed they would exercise. How are you going to remedy this state of things? You cannot do it unless by an amendment of the Constitution. Gentlemen may say that the legislature will repeal their acts. What kind of a system is this? Their acts will remain upon the statute book for two years, until another legislature comes into existence. If the legislature repeals any of the acts of the board, the moment the General Assembly becomes disorganized, the board of education may meet and re-enact those very laws, which will remain in force for the next two years. If the two bodies thus come in conflict with each other, this conflict will continue until the people can amend the Constitution.

Why not make such a provision upon this subject as they have made in other States? It is the only safe way in which we can proceed. It will not answer for us to depart from the example of other States in this respect, and create a separate and distinct department of the government. I believe the more gentlemen will reflect upon this matter the more they will see the propriety of providing in the Constitution merely for a board of education, and then leave it to the legislature to clothe them with their powers, and prescribe their duties. If gentlemen are afraid that the legislature will not carry out the provision we make upon this subject, I ask them to remember the arguments they used in regard to the establishment of banking systems by the legislature. I ask the gentlemen who were not afraid to trust the legislature with carrying out the provision in relation to banks, if they are afraid to leave to the legislature this question in regard to clothing the board of education with these powers? Have we all the knowledge and wisdom there is upon this subject, and must we incorporate it here into the Constitution? Must we go on and elaborate this matter, and prescribe the duties of this board of education? I should not complain of these gentlemen, in this respect, if they were members of a legislative body. I should not complain of there going on and prescribing the powers and duties of this board of education, and clothing them with all these powers if they saw fit, if they were in a legislative body. But we are now clothing them with constitutional powers, and giving them powers co-equal with the legislature.

I think, then, it would be better to leave entirely to the legislature to appoint this board, provide for its election, and, when it is constituted, then let the legislature say what they shall do, and how they shall do it; and then they will be held amenable to the people through the legislature, for their acts. I am not afraid to trust the members of the legislature, for they come directly from the people, and they represent the popular voice.

Let me suggest to members one of the difficulties with which they will have to contend, under the system proposed here, of a board of education acting as a separate and distinct body. For instance, we will suppose that they go to work in pursuance of the plan of Horace Mann, and undertake to provide for a higher grade of common schools. There will come up the struggle which we have seen upon this floor. Look over the votes which we had in regard to the location of the university, and you will find that the members in the immediate vicinity of this place voted for its location at Iowa city, while those members who represented portions of the State far removed voted against its location here; many, no doubt, induced to do so from the consideration that, in case of its removal, they might have an opportunity to secure its location in their own section of country. I do not complain of this. It is natural that the people in different parts of the State should struggle to secure the location of this and simi-

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lar institutions in their midst. So it will be in regard to the establishment of the normal school academies and high schools. The board of education, when they come to act upon matters of this kind, will be appealed to in behalf of various proposed locations; and wherever they make a decision in favor of any particular locality—I do not care how advantageous it may be—great dissatisfaction will be expressed by the unsuccessful applicants, which will result in ill feeling; and you will then find these parties applying to the next legislature for an act repealing the laws of which they complain. They will resort to every means to compass ther object, and by ingeniously contrived appeals to the people, they will try to induce them to elect legislators who are opposed to the proceedings of this board. I am confident in the opinion that you will bring these two departments, the board of education and the legislature, in direct conflict with each other, if you put them upon the same footing of independence and equality. Leave it to the legislature then to say how far this board shall go, and leave also to them the power of repealing their acts.

It is also proposed by the gentlemen who are in favor of creating a separate and distinct board, that the Governor shall be a member of this board, without the right to vote. I have no doubt that the Governor would be a very important officer to make suggestions to the board, and that his attendance upon their sessions might be attended with some benefit. But I would have him go there like any other citizen. The more I reflect upon this matter the more I am opposed to incorporating a provision in the constitution creating this co-ordinate branch of the government to legislate upon educational matters. Let us have a board of education, but let their duties be prescribed by the legislature. How often have we had matters staved off here, by gentlemen coming here and saying that they were not prepared to act? I ask you how many are now prepared to act, and prepared to speak the opinions of their constituents upon this matter? I tell you we are acting hastily, and taking upon ourselves a responsibility in this matter which we are not authorized at present to take. Let us merely say that the legislature shall prescribe the powers and duties of this board of education. The people in the meantime will consider what powers they want conferred upon that board, and they will instruct their representatives accordingly, who will then clothe this board with such powers as they see fit. So far as I am concerned, I shall protest against creating this board with powers separate and independent from the legislature.

Mr. HALL. I move the previous question. I desire to have this matter disposed of. We have already had a great deal of time spent upon it.

The previous question was seconded, and the main question was then ordered.

The question was upon the substitute offered by Mr. Clarke of Henry.

The question was then taken, by yeas and nays, and the substitute was not agreed to; yeas 7, nays 27, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Gray, Wilson and Young.

Nays—Messrs. Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren and Winchester.

Veto of the Governor.

Mr. CLARKE, of Johnson. I would like to amend the eighth section in relation to the veto power. As I understand it the Governor is now a member of the board for the purpose of making suggestions. He is permitted to attend, and is virtually a member of that board, except he has not the right to vote. And in addition to that this section gives him the exercise of the veto power. I desire to modify the character of that veto, so much so, that I would allow a majority of all the members to overcome it.

Mr. TRAER. I would ask if it would not be in order to reconsider the vote adopting the provision upon this subject.

The PRESIDENT. Such a motion would be in order.

Mr. TRAER. I make that motion then.

The PRESIDENT. The question now will be upon re-considering the vote by which the following section was adopted.

"The sessions of the Board of Education shall not be held during the time the General Assembly are in session. The Governor may attend the sessions of the Board; he may take part in their deliberations and discussions, but shall have no vote; he may exercise the veto power upon all acts, rules and regulations passed by the Board, in the same manner as is provided for acts of the General Assembly."

The question was then taken, and the convention, upon a division, refused to re-consider the vote, ayes 9, noes 11.

Disposition of the School Fund.

Mr. JOHNSTON. I desire to detain the convention but a few minutes. Yesterday a resolution was introduced here, and referred to a select committee, in regard to the proper investment of the school fund of the state. The committee have hitherto had no opportunity of making their report. I have been intending to present it as a separate section to this article upon education, and as this is the proper place for it, I will now offer it.

I now beg leave to submit the following report:

"The select committee to whom was referred the resolution of inquiry in relation to the pro-

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per investment of the perpetual school fund of the state, beg leave to report the following additional section to the article on education and school lands:

"Sec. —. The general assembly shall provide that after the year the perpetual school fund, loaned by the fund commissioners, superintendent of public instruction, or distributed in the several counties of the state, shall be gradually withdrawn and invested in United States stocks, the stocks of interest-paying states, or loaned to the state of Iowa. And the general assembly shall further provide, that all other moneys belonging to said perpetual school fund, or accruing in any manner to the same, shall be invested in like manner, as soon as practicable; and for all sums thus invested or loaned, the state shall pay an annual interest of not less than six per cent., to be distributed as provided by law, without charge to the school fund."

Mr. JOHNSTON. It is necessary, pobably, that I should accompany this report with a statement, for the purpose of enabling members to understand its exact purport. It is well known to the members of the convention, that what is designated as the perpetual school fund in the constitution, consists of the proceeds of five hundred thousand acres of land granted to the state by the act of Congress of 1841, commonly called the distribution law. That fund has been placed in the hands of school fund commissioners, of the different counties of the state, who loan it out to individuals; a portion of the fund has been loaned by the superintendent of public instruction; and I believe a portion of it is now in the Treasury of the State. I do not know what the precise amount of this fund is, but it is variously estimated at from two to four millions of dollars. There is a large quantity of land yet undisposed of, and an interest of five per cent. on all sales of land made by the the United States within the limits of this state, accrues to this fund.

It is proposed by the section now offered, that all loans made by the school fund commissioners, or by the superintendent of public instruction, or distributed through the state, shall after a certain year be gradually withdrawn for the purpose of having them invested either in state or United States stocks.

It is also provided by the same section that all other moneys arising from the sale of those five hundred thousand acres of land granted by Congress, or from the sales of all other lands in the state, on which an interest of five per cent. accrues, shall be invested in like manner as soon as practicable. It is proposed that those moneys shall go into the funds of the state, so far as the state may find it necessary for its own purposes; but we could not enter into details upon this matter and therefore concluded it was better to leave it to the General Assembly.

The general proposition we make is this; that this fund shall go into the hands of the state; that the state shall be held responsible for it, and pay an interest upon it of not less than six per cent. per annum. The sum of six per cent. was fixed for this reason that where a large amount of money is loaned, and the state becomes responsible for it, six per cent. is about equivalent to ten per cent. as loans are now made, scattered through different parts of the state. Ten per cent may at some day become a high rate of interest. If six per cent. is fixed here, it may become a regulator of the rate of interest all over the State.

There is a blank left here for the year, after which the general assembly shall provide that these moneys shall be withdrawn from the different counties of the state and invested in state or United States stocks. This money is loaned through the whole state, and there are a great many persons who not only have had these loans, but who depend upon a renewal of them; and it was therefore thought best that the general assembly should name some period in the future when this withdrawal should commence. It is not expected, however, that this money will be withdrawn, until it is due and the proper notice given.

Mr. PALMER. I do not know how much money is now due, but it seems to me that this report makes provision for putting the state in debt further than what we have heretofore contemplated. I do not know what use it is expected the state will make of this money, provided they do not see fit to invest it in United States stocks. At any rate, this report is providing for incurring a very large burden by the state by way of interest, if the state should see fit to take this money. For instance, we would have to pay one hundred and twenty thousand dollars yearly, as interest, at the rate of six per cent. on two million dollars, if that amount should come in; and this one hundred and twenty thousand dollars would have to be paid by a direct tax upon the people, provided this money is not invested in United States stocks or something of that kind.

I rise merely to suggest, whether it would not create a debt upon us more than we are desirous of carrying.

Mr. JOHNSTON. This is a subject to which the attention of the convention was drawn at a very early day. I suppose that most of the members have had this matter under consideration. The great object of the section proposed by the committee was this, to withdraw the school fund from the condition in which it is at present placed. There is a large loss, as I understand from the report of the superintendent of public instruction, and from other sources, arising from the management of this school fund. I do not know the exact amount. There is a large loss in the counties of Des Moines, Henry and Appanoose; and I suppose when the agents, who will be appointed by the Governor to carry out the views of the legislature, shall examine the accounts of the different school commissioners of this State, they will find

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that very large losses have occurred in other portions of the State. The expenses of managing this fund are some fifteen or twenty thousand dollars a year. It becomes necessary, when we are inaugurating a new system of education, and when the whole State feels that something should be done to secure the efficiency of the school system, that something should also be done in regard to the school funds, and that we should take measures for placing them in some safe and permanent investment.

In regard to the matter suggested by the gentleman from Davis, [Mr. Palmer,] I would merely say that the state at present has many public buildings to erect, which will require a large amount of money to be expended upon them. The state may use this money for any purpose she pleases, and she is responsible for it, so that there can be no loss arising in this respect.

I know it is generally supposed that the distribution of this money through the whole state is a great benefit to the people, but it falls into the hands of a few people only. Some men borrow five hundred dollars for themselves, and then borrow five hundred dollars for their wives and another five hundred dollars for each of their children. I do not know any way in which this money could be so beneficially used as in placing it in the hands of the state, to be used for any purpose which the state might desire. We have great necessity for its use at present, as we have a great many public buildings to provide for, as I have already stated; and even if there were more money than the state desires, there is a provision made in this article to invest it in United States stocks, or the stocks of interest paying states.

I know there are some gentlemen who desire to place a limitation upon this fund. I propose myself, when the article on state indebtedness shall come up on its third reading, to make some provision in regard to the formation of any debts on the part of the state, and to provide that the state shall be indebted only to the school fund. The article on state debts is still open for amendment, as I understand, and I intend to make a provision then for a limitation in this matter of the state incurring indebtedness, if the convention so desire.

Mr. TRAER. I would inquire of the gentleman from Lee, [Mr. Johnston,] whether it is to be optional with the State to invest this money in stocks, or use it for their benefit?

Mr. JOHNSTON. The intention of the committee is fully stated in the section, that this money may be borrowed by the state, or invested in state or United States stocks.

Mr. TRAER. I suppose the amount to be invested in state stocks, would be regulated as a matter of course in the article upon "state debts." The state could not take over two hundred and fifty thousand dollars, unless this provision is intended to come in conflict with the provision which prohibits the state from incurring an indebtedness of over two hundred and fifty thousand dollars.

Mr. JOHNSTON. We intend to provide for this difficulty when that article comes up for its third reading.

The PRESIDENT. The chair would suggest that the article on state debts has already been ordered to its third reading.

Mr. JOHNSTON. We can recommit the article for the purposes of amendment.

Mr. TRAER. I am perfectly willing to withdraw the school fund, which I suppose must amount to some four million dollars, from its present condition, and place it it the hands of the State as trustee. But I would be unwilling to place any amount of money in the way the gentleman from Lee [Mr. Johnston] proposes, and give the Legislature the right to say how much of this money the State shall use. If it be necessary to increase the sum in the provision in the article on State Debts, limiting the State indebtedness to two hundred and fifty thousand dollars, I would vote to increase it to five hundred thousand dollars. I did vote for that sum when the subject was under discussion some little time since. I shall vote against the proposition offered by the gentleman from Lee, [Mr. Johnston,] unless there is some provision inserted in it which will restrict the State from taking more than a certain amount of this fund.

Mr. SKIFF. I understand the objection of the gentleman from Benton [Mr. Traer] to this proposition to be, that the State is already restricted from incurring a debt of more than two hundred and fifty thousand dollars. That will, of course, operate as a barrier, and she cannot borrow more of this money than what she had borrowed before, to make up this two hundred and fifty thousand dollars, and the balance is to be invested in stocks. I am not in favor of the State incurring an indebtedness of more than two hundred and fifty thousand dollars.

In relation to the manner of disposing of the school funds, I believe that the members of the convention are pretty well agreed that it is best to withdraw them from the hands of the officers of the State, where they are at present placed. I, for one, had the management of the fund in the county in which I live, and I believe the fund is well secured. It is all loaned out there, but I know, from what I have seen, that the expenses in conducting and managing the fund throughout the State are very great. I do not know that there is any law requiring the fund commissioners to make up any losses which may result to the fund. He may be mistaken in relation to the title of the real estate which is given for security, and there are a thousand other ways in which it may be lost, and which will easily suggest themselves to all gentlemen here.

I am in favor of the plan proposed by the committee here, and I hope that as early a period as possible may be determined upon when this money shall all come into the hands of the State; I would like to see all this fund placed in

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the hands of the State as early as the first day of January, 1860, to be disposed of according to law, either to be used by the State or invested in stocks.

Mr. HARRIS. I confess that I am so little of a financier, and know so little about these stock matters, that are so much talked about, that I cannot speak so advisedly as I would like to do upon this subject. I am aware that this school fund may be, and that it has been, frittered away to some extent by the agents of the State, who have had its management. But may it not be wasted in making investments, as well as when managed by the agents of the State? We have already provided in the constitution that any losses accruing to this fund in consequence of negligence or corruption on the part of the agents of the State, shall become a debt upon the State to this fund. So far as losses to the fund are concerned, then, I think we have taken some steps already to guard against them. If it be necessary to take further steps in that direction, I am willing to place pains and penalties over these agents, in order to make them do their duty and prevent waste. The fund can be just as well secured by being controlled in that way as it can be by the means provided by this special committee; a way, it strikes me, too, which will be quite as satisfactory and perhaps as profitable to the people of the State.

So far as the expenses of the present system are concerned, I agree with other gentlemen here, that they have been very great, but they have been incurred unnecessarily. The expense of employing agents, to collect and dispose of this school fund for safe keeping, has been altogether unnecessary. This money could all have been collected by the financial agents of the State, just as well as to have been frittered away by agents specially employed for this purpose. I have been in favor, for some time, of getting clear of these fund commissioners. I tried, four years ago, to effect this object, and to get this fund placed in the hands of the financial officers of the State, and of the counties; but the scheme did not meet with the approval of the legislature at that time. But the time is not far distant when it will meet with general approval.

But gentlemen say that this fund can be invested in safe stocks, and that securities which are taken by county agents sometimes prove worthless. May not this fund be invested in State stocks, which are just as worthless? I am doubtful of all these stocks, and I would rather trust the agents of the people, if you will only place the proper checks over them.

Mr. CLARKE, of Henry. I would suggest to the chairman of the special committee upon this subject [Mr. Johnston,] that if he will accept the following amendment it may meet the objection just raised by the gentleman from Appanoose [Mr. Harris]—

"That on all such sums as shall be invested or borrowed, the State shall pay an annual interest of —— per cent., to be distributed as provided by law, without charge to the annual fund."

Mr. JOHNSTON. I have no objection to such an amendment.

Mr. CLARKE of Johnson. I shall favor the proposition of the committee; and the controlling reason which will induce me to favor it is this: The State is now borrowing money of eastern capitalists, and paying annual interest upon that money. That interest is taken out of the State every year to the city of New York. There will be no necessity for doing this if the proposition of this committee be adopted. The gentleman from Lee [Mr. Johnston,] has very properly remarked, that we have need of the school fund to use in our own State, as we have many public buildings to erect, and I should prefer that we borrow of ourselves, and keep the interest at home, rather than that this money should lie idle upon our hands, or that it should be distributed among the people in the way in which it is now distributed. As a matter of economy, if we must borrow money, and if we have a fund of this kind, it is better to borrow of ourselves. As a matter of safety, too, I am in favor of this course. The gentleman from Lee [Mr. Johnston,] has very properly remarked, that if the State takes this money, she is perfectly responsible for it. If it be placed in the hands of parties that will act justly and honestly by this fund, there can be no danger of loss. These are the reasons that induce me to favor the report of this special committee.

Mr. SOLOMON. I wish to say, although I have the utmost confidence in the financial ability, as well as the integrity of purpose, of the gentleman who offered this proposition, that I cannot favor it. It seems to me that there is danger in it. My fears in this respect may be unfounded, but I entertain them, and I think with some show of reason. In the first place, I think if this money is to be invested in United States or state stocks, the stocks so purchased, and which come into the possession and control of the state officers, may be farmed out by them to various banks which may be established throughout the state, and become a basis for banking. I may be mistaken in this, and if there be anything in the article on corporations to prevent it, that objection could be removed.

In the next place I am opposed to the state having so large an amount of funds under its control, to be used in any way by these officers. I voted the other day for the lowest limit upon state indebtedness. I did so from the fact that I was opposed to the officers of the state having control of the money, for I did not believe they were fit persons to have it.

I wish to offer the following amendment to this proposition by way of addition:

"Provided such stocks shall never be used as a basis for banking."

Mr. TODHUNTER. This question with regard to the absorption of the school fund has been agitated since the early part of the session.

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When we come to examine this question, look into its merits and see what there is in it, we find that there is at this time near four million dollars of this school fund. If we take this money from the different counties and place it in the state treasury, then the state as a matter of course becomes responsible to the districts, or the counties for the dividends or the interest accruing for this money. I shall not be willing to place this fund in the state treasury, unless the state will agree to pay ten per cent. interest upon it. That is the amount for which this money can be readily loaned in any county in the state, and be well secured by freehold security, for double the amount without regard to any buildings. I would be unwilling to withdraw this fund from the counties and place it in the state treasury, unless the state would become responsible to the school districts of the state for the sum of ten per cent to be paid annually. We do not need this four million dollors now for the building purposes to which the gentleman from Lee, [Mr. Johnston] has referred. Is this money then to lie in the state treasury idle?

But the gentleman proposes, in the report he has submitted here, to loan it and invest it in state and United States stocks. My friend from Appanoose, [Mr. Harris] says he has some misgivings in regard to this matter. I do not consider it a very safe way myself of investing this money, and I should be opposed to it, for that reason, and also for the reason that we cannot get stocks which will pay ten per cent. But genlemen tell us, that this money is wasted under the present system. If that is so, do away with your school commissioners, and place this money in the hands of the county treasurer, and let him attend to these financial affairs, and then you will prevent this waste. Or if this fund is to be absorbed by the state, let it go into the state treasury, where it can be used as the state wants it. This fund will be constantly increasing, as long as there shall be an acre of land to be sold in the state. There are yet thousands of acres in the state to be sold and appropriated in this way. I think that evil would grow out of the proposition reported by this committee, unless there be some kind of provision adopted by which this fund should be gradually absorbed, and then only as the state wants to use it. I believe it should not be invested in stocks. The state of California has repudiated her debts by a decision of her Supreme Court. What has been the effect? Why it has effected the banks of the state of Illinois, and the same result may follow in other states. I think it is a dangerous plan to invest money in state stocks; the better plan in my opinion would be, for this state to absorb this fund gradually, as she wants to use it.

We undertake by this proposition to draw this money from the counties, where, it is now circulating to the great advantage of the people. The people of the various counties need the benefit of it, and are amply able to secure it; and the only objection I hear raised to this disposition of the fund, that is worth anything, is that it is wasted by the school commissioners, and that it takes from sixteen to twenty thousand dollars to pay these officers, as their pay will average two hundred dollars for every organized county in the state. Abolish then the office of school commissioner, and place this fund in the hands of the county treasurer, and you will avoid all this waste and this expense. I shall be opposed to the state absorbing this money at once, or even in five or six years, because the state does not need it, and it will make a debt of four hundred thousand dollars a year, which we will have to pay by a tax.

Mr. GILLASPY. I may not be correct in the conclusions I arrive at, or in the construction which I put upon this report. If I understand it rightly, the State, when she has absorbed this entire school fund, will have a right to buy United States or State stocks. After she had thus bought them, would she have a right to loan them?

Mr. JOHNSON. No, sir.

Mr. GILLASPY. Then the question is what will the State do with these stocks? If I were satisfied that these stocks would not go out of the vaults of the treasury, I might support the proposition, although I would be opposed to taking the money out of the hands of the people in the different counties, and placing it as a whole in Wall street, New York.

I am satisfied that a great deal of money is lost by the mismanagement of this fund. I believe that the treasurers of the different counties are the proper persons to have the distribution of this fund. I know in the county in which I reside, that a great many persons have been benefitted by borrowing from this fund. I think that the office of school commissioner, with the salary attached to it, is an unnecessary appendage to the school system. I believe the school fund ought to be drawn out of the hands of these school commissioners, and placed in the hands of the county treasurers.

I would be opposed to the State—if she should absorb this fund—buying United States or State stocks, because I do not believe that, where these stocks are made dependent upon the monetary affairs of this country, and upon the action of the several States of this Union, they would be a safe and profitable investment. Suppose a division of the Union should take place—an event hardly supposable, it is true—and you have deposited in your vaults, as security for this school fund, the stocks of some of the southern States, and they should repudiate. Mississippi did once repudiate, and I understand from the gentleman from Warren [Mr. Todhunter,] that California has repudiated.

Mr. TODHUNTER. The Supreme Court of that State have decided that the State are not bound to pay its debts.

Mr. GILLASPY. That is repudiation so far

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as it goes. We have no guarantee that any State in the Union will not repudiate. Suppose that some of the States whose stocks we should hold should repudiate, and refuse to pay; we are then involved at once in a loss of the amount of the entire fund. I am in favor of drawing the money out of the hands of the school commissioners, and placing it in the hands of the county treasurers, who are better qualified to know what the proper securities are, than any other men in the county, on account of the facilities which the records in their offices will give them for determining this matter. Because this school fund has been managed in a loose manner, it does not follow that the General Assembly cannot pass a law by which the fund can be secured.

I believe that the county treasurers are the proper officers to hold and distribute this fund, for they are the most competent to obtain the best kind of securities. It matters not to me, whether a man borrows five hundred dollars in the name of himself, or his wife and children, provided he gives the proper security. If the security be ample, that is sufficient. I shall vote against the report. I am opposed to the stock system entirely, and I hope it will not prevail.

Mr. GOWER. I cannot subscribe to the sentiments of the gentleman from Wapello, [Mr. Gillaspy.] The report presented by the gentleman from Lee, [Mr. Johnston,] as well as the amendment of the gentleman from Henry, [Mr. Clarke,] meet my most hearty approval. The views embraced in these propositions were entertained by myself long before I took a seat in this body.

A portion of my constituents are in favor of carrying out a policy such as is here recommended; and it was in accordance with their views that I embodied the same principles that are now under discussion, in a resolution which I offered here for the consideration of the committee on education and school lands, at the time that committee was formed. I embodied the same in an amendment which I offered here a day or two since, when this subject was under consideration. I am greatly pleased with the report now presented by the special committee, which was appointed to take this matter under consideration, and shall support it.

Mr. WILSON. I desire further time to reflect upon this matter before voting upon it, and I presume that other gentlemen are similarly situated. I move, therefore, that the Convention now adjourn.

Mr JOHNSTON. Permit me to say a single word before the question is put, and I will then renew the motion to adjourn. I only desire to say that there appears to be a great deal of misapprehension upon this subject, and a great want of information. For years the appeal has come up from every part of the State to the legislature, to take some action in regard to the school fund, and it has been met by the same arguments that we have heard to-day. I hope that gentlemen will take time to think upon this subject, and after they have said all they wish to say upon this subject, I wish to explain fully the objects which the committee had in offering this section. For the purpose of giving them that opportunity, I now move that the Convention adjourn.

The question was taken, and the motion was agreed to.

The Convention accordingly adjourned until to-morrow morning at 9 o'clock.

SATURDAY, February 28, 1857.

The Convention met at 9 o'clock, and was called to order by the President.

Prayer by the chap'ain.

The journal of yesterday was read and approved.

Mr. HARRIS. When the vote was taken yesterday upon the proposition of the gentleman from Wapello, [Mr. Gillaspy,] to restrict the use of the school fund to the *white* children of this State, I was absent. If there be no objection, I would like to have the privilege of recording my vote for it now.

No objection being made, the clerk was authorized to record Mr. Harris' vote as in favor of the proposition.

Distribution of the Debates.

Mr. WINCHESTER, on the part of the committee, submitted the following report:

"The select committee, to whom was referred the subject of indexing and superintending the publication of the debates and the distribution of the same, beg leave to report the following resolutions:

Resolved, That W. Blair Lord be employed to index and superintend the publication of the debates of this Convention, and that he be allowed the sum of one hundred and twenty dollars for said services.

Resolved further, That five hundred more copies of said debates be ordered from the publishers, in addition to the fifteen hundred copies already ordered; and if the same shall exceed twelve hundred pages they shall be bound in two separate volumes.

Resolved, further, That when the debates shall have been published, they shall be distributed as follows: eighty copies to the State Historical Society; two copies to each State and organized territory; five copies to each county in this State, one of which shall be kept in the county office; twenty copies to each member of this Convention; five copies to each member of the Senate; one copy to each member of the House of Representatives; three copies to each of the secretaries, reporters, sergeants-at-arms, and chaplain of the Convention; one copy to each State officer, supreme and district judge, and

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district prosecuting attorney. The remainder of the twenty thousand copies shall be placed in the possession of the State to be disposed of as may be designated by law."

Mr. CLARKE, of Johnson. I move to lay the report upon the table for the present. I would like time to examine it somewhat.

The question was taken, and the motion was not agreed to, upon a division; ayes 10, noes 15.

Mr. WINCHESTER. In view of the fact that our session is drawing to a close, I think it will be well to dispose of these matters as they come up. I hope the report will meet with the approbation of the Convention, although I have no objections to any changes in it they may see fit to make. The report we have made here is unanimously concurred in by the committee, and I hope it will be disposed of now.

Mr. CLARKE, of Johnson. The objection I have to this report is contained in the first section of the second resolution. The Convention will remember that the committee on this subject reported in favor of printing three thousand copies of these debates. That report was adopted, but it was subsequently reconsidered, and after a consultation with several gentlemen here, I proposed to fill the blank with two thousand; but unfortunately that proposition was voted down, and the motion to fill the blank with fifteen hundred was agreed to. We have now gone on and printed upwards of a hundred pages of this work, and the proposition now offered here is to increase the number of copies of debates from fifteen hundred to two thousand. Now how is this to be done? Does the Convention propose to pay for re-setting the type?

Mr. WINCHESTER. I will explain how it is to be done. The printers have stated to different members of the convention, that they are striking off five hundred additional copies, which the convention can have if they see fit. If we do not take them, they will make use of them for their own account and profit.

Mr. CLARKE, of Johnson. That is one of the items of information which I desired to obtain. I had been advised by the pr nters that, believing there would be a demand made for this work, they had printed more copies than were ordered by the convention; but it was a question in my mind, whether they were willing that the convention should have them at the prices we are now paying for this work. If the chairman of this committee, (Mr. Winchester,) is satisfied that they are willing to turn over to the state the additional copies of this work which they have printed at their own expense, upon the same terms we have already agreed to pay for the rest, that will obviate one of my objections to this report.

I have another objection, however, to this report, and it is this. We adopted a proposition the other day to distribute these debates, giving to each member twenty-five copies; but it was reconsidered upon the ground that it did not make a fair and equitable distribution. The argument against it was this, that some members of the convention represented a much larger number of people than others did, and gentlemen referred to the Des Moines district as an example. That county has two delegates upon this floor, representing a population of a little over twenty thousand, while the population of my district is a little over nineteen thousand five hundred. I supposed it was the object of the convention in referring this subject to the committee to make a distribution of these reports in accordance with the population of the State. It was argued by the gentleman from Pottawattamie, [Mr. Price,] and by the gentleman from Mills, [Mr. Solomon,] that unless there were some such distribution as I have suggested, their districts would not get their fair proportion. I find upon looking at the census, that although the gentleman from Pottawattamie, [Mr. Price,] represents perhaps the largest district in the state in point of territory, yet it is in fact one of the smallest districts in point of population.

If I understand this report, it does not equalize the distribution of these debates. It provides for giving copies to each county judge and district prosecuting attorney throughout the state, and reduces the number given to the members of the convention. It seems to me then that the object which we sought to accomplish by referring this subject to a special committee, has not been attained. There is no equal distribution provided for these reports by the committee. I cannot see the propriety of giving these reports to the county judges and prosecuting attorneys throughout the State. I know what the practice has been heretofore in relation to these matters. Whenever the county judges and prosecuting attorneys go out of office, they put all the books which have been voted to them by the legislature under their arms and take them home. I will venture to say that you cannot find ten places in the state where these books have been allowed to remain, after the expiration of office which these officers have held. If, as members of the convention, we have taken upon ourselves the responsibility of publishing these debates, let us take the responsibility of distributing them among the people. I do not see what advantage there will be in sending them to the county judges and prosecuting attorneys. They are not calculated to instruct them in the discharge of their duties.

My intention in voting for the reporting and publishing of these debates was to place them in the hands of the intelligent reading men of the State, and not to distribute them so much with regard to population or locality. I desired that they should be placed in the hands of the leading influential men of all parties in the State, men who had libraries and who read works of this kind, and who would use them for the purpose of disseminating information among the people. I do not think that by sending them to the county officers this object would be attained.

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It does seem to me that the report of the commit ee does not obviate the objections which were taken to the resolution upon this subject, as it passed the convention in the first place. It reduces the number of copies given to members for the purpose of giving them to those by whom it is not likely they will be as well taken care of as if they were given to individual members.

Mr. WINCHESTER. I think I have as great reason to complain in regard to this matter on the score of population, if there be any cause of complaint, as any other gentleman upon this floor. It is well known to the convention that I represent the largest population by about seven thousand of any member here. The principal objection which I heard to the resolution presented the other day upon this subject, when it was first offered was, that each member was provided with twenty-five copies of these debates, to be distributed in his entire district. I think every county in the State, if it is sparsely settled now, will be largely settled in a few years, and should be entitled to at least twenty-five copies of this work. If I, with twenty-five copies, undertake to distribute five copies to each county in my district, I should come out minus twenty copies. I think if any gentleman has any reason to complain in regard to this matter, it is myself.

Mr. GILLASPY. I have no particular objection to this report except in one respect. I am satisfied that there should be a certain number of copies sent to each county in this State. But I am opposed to the appropriation of five copies of these reports to each Senator, and one to each member of the House of Representatives of the last general assembly. To my mind, the Senate, when they voted to themselves five copies of these debates, had no right to do so, and did it without the authority of law. They might with just as much propriety have provided by resolution, that they should be entitled to five copies of the debates of the constitutional convention of 1870, if a convention shall be called at that time to revise the constitution. I undertake to say here, that the members of the Senate have not the legal right to a single copy of the debates of this convention, nor have the members of the lower house.

I believe it will be proper and right to leave the distribution of these debates—except in certain instances where you have made provision for supplying libraries, &c.—to the members themselves. I should supply, as a matter of course, the district judge of my district with a copy, and there are other men to whom I would rather give copies than to my senator.

I am in favor of the resolutions now introduced with one exception. I would not give to each member of the last Senate five copies and to each member of the House one copy. I do not believe it is necessary to furnish the district judges and the prosecuting attorneys with copies of this work. If it be in order, I move to strike out that portion of the resolution which refers to the distribution of these debates to senators, members of the House of Representatives and district officers.

The PRESIDENT. The motion would be in order if there be no amendment proposed to the second resolution.

Mr. YOUNG. I move to strike out that part of the resolutions which provides for procuring five hundred additional copies. I think we have decided this matter once before, and as I made the motion to fill the blank then with five hundred additional copies, I will now move to strike it out.

Mr. MARVIN. I hope the motion to strike out these five hundred copies will not prevail. They will be distributed all over the state, for the benefit of the people generally.

Mr. TRAER. I desire to inquire if this motion be in order. I understood that where a question is once presented and voted upon, that it cannot again be presented. This question has already been voted upon.

The PRESIDENT. The chair is of the opinion that the motion is in order.

Mr. PALMER. I hope the proposition to strike out the clause providing for distributing copies to the members of the general assembly, particularly to the lower house, will not prevail. It appears to me that the house were quite moderate when they proposed that they should have one copy each. So far as the senate is concerned, I am not particular about their having five copies each. I think it would be proper to allow the members of the general assembly one copy each. They are men who stand high in the community in which they reside, and if we are to distribute these debates at all, they are proper persons to receive them. I move to amend the resolution before the motion to strike out is put, by providing that the senators shall have one copy instead of five copies of these debates.

The PRESIDENT. That motion would not now be in order, as there is a motion pending to strike out that portion of the second resolution which provides for procuring five hundred additional copies.

Mr. HARRIS. I do not think that we need trouble ourselves about the members of the legislature in regard to this matter. The object we have in view is to distribute these debates over the state. As I understand the matter, there was some appropriation made of these books by the legislature, and I understand what they do is law, but I do not understand that what we do is law.

The PRESIDENT. The chair is of the opinion that the action of the general assembly upon this matter was unconstitutional.

Mr. GILLASPY. I would ask the gentleman from Appanoose [Mr. Harris] if he intends to excuse the action of the members of the general assembly in regard to this matter. I do not believe that there is a man upon this floor who would say that the senate are legally entitled to

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five copies of these debates, and the members of the house to one copy each. I undertake to say that they have no such right.

Mr. TRAER. I propose that the general assembly shall take care of themselves in this matter. If they want copies of these debates, they can order them themselves, if they see fit. I have been opposed to printing more than fifteen hundred copies, and I shall continue to be so. I think that is a sufficient number for this convention to order. If we strike out the clause providing for five hundred additional copies, I have no doubt that the publishers will find sale for them, and probably at better prices than the state would pay them. I do not think we have any control over the action of the last legislature that appropriated these books. My idea with reference to this matter is this: if the legislature wish to have these debates, and if there are not copies enough ordered by the convention for us to distribute as we have made provision, and for the legislature too, they can order an additional number of copies printed. I do not consider that we are bound to pay any attention to what they have done, in regard to these debates, and for that reason I shall vote against ordering an additional number.

Mr. TODHUNTER. So far as the action of the legislature is concerned, it seems to me that we need not concern ourselves about it in any way. All we have to do is to go on and make a distribution of these reports as we may think proper; and if there are any left in the hands of the Secretary of the State, then the legislature can appropriate them to suit themselves. If copies enough are left to entitle the Senators to five copies, and the members of the House to one copy, then they come in under their resolution and take them. I think I shall vote for striking out the provision that relates to procuring five hundred additional copies, and let the legislature take care of themselves. The action of the legislature is independent of this convention. I think that the course they took is doubtful policy, to say the least of it. They had no right to make this appropriation, and for that reason I do not think we should pay any attention to their action. Let us go on and make our distribution, and leave the remainder of the debates in the hands of the State, and then if the legislature are entitled to them, they can come in and get them.

Mr. CLARKE, of Johnson. I am in favor of taking the five hundred additional copies if I can have any assurance that the State will not have to pay for the composition the second time. The convention will remember that the number which we first ordered to be printed—three thousand—was afterward reduced to fifteen hundred, when a majority of the convention thought that we were morally and legally bound to live up to that contract. I understand that the printers have now taken upon themselves the responsibility of publishing five hundred additional copies, expecting that there would be a demand for them. Unless I can have some assurance that we are to have these five hundred copies upon the same terms, and that we are not to be charged for double composition, I cannot vote for the resolution, and shall be compelled to vote for the motion to strike out that part of it which provides for obtaining five hundred additional copies. I would suggest to the gentlemen who are in favor of this resolution, that it would be better to lay it upon the table, until we can hear from the printers definitely upon this subject.

It is true there may be a question whether, under this contract, they would have the right to print an additional number of copies. The contract provides that the work, during its progress, and after its completion, shall be the property of the State; but that is a legal question, which, perhaps, we cannot solve here, or, if we could solve it, it would not be binding upon the courts. We have no right to make a law or decide upon the character of the contract we have made. I would suggest to gentlemen that it would be better to lay the resolution upon the table, until we can ascertain from the publishers whether they are willing to let us have the five hundred additional copies without paying for double composition. I move, therefore, to lay these resolutions upon the table for the present. I will vote for procuring the five hundred additional copies if we can get them upon the same terms that we pay for the copies we have already ordered.

The question was taken upon the motion to lay the resolution upon the table, and it was agreed to.

Mr. CLARKE, of Johnson. I move that the special committee be instructed to correspond with the printers—Messrs. Luse, Lane & Co.,—in relation to procuring these five hundred additional copies.

The question was taken and the motion was agreed to.

Reports on Education and School Lands.

Mr. TODHUNTER. I move that both the majority and minority reports of the committee on education and school lands, be referred to a special committee of five, and that they be instructed to report on next Monday.

Mr. GILLASPY. Before that motion is put I wish to offer a substitute for the subject matter under consideration, so that it may go with that report to the committee. It is substantially the article in the old constitution, though with some amendments. For the first section of the article on education in the old constitution, which provides for the election of a superintendent of Public Instruction, I propose the following:

"The General Assembly shall provide for the election by the people of a Board of Education, whose terms of office, compensation, powers, and duties, shall be prescribed by law."

Then I retain the remaining sections of the article until I come to the fifth section, and then

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I move to strike out the words "with such branches;" so that the remainder of the article would read as follows:

"Sec. 2. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D., 1841, and all estates of deceased persons, who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

"Sec. 3. The General Assembly shall provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its proportion of the interest of the public fund during such neglect.

"Sec. 4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall, from time to time, provide by law.

"Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of a University; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said University, as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University."

I make this motion for this reason: I believe the cause of education is one in regard to which, above all others, we should not be bound down by too many constitutional provisions, and especially in a growing state like this, where necessarily various changes will have to be made in the system, from time to time. The general assembly should, therefore, in my opinion, have power over this matter. I hope that I may be allowed to offer what I have here presented as a substitute for the proposition now under consideration, and that it may be referred with the reports to the committee.

The PRESIDENT. The chair thinks there was an amendment pending to the amendment on yesterday, and therefore the proposition of the gentleman from Wapello [Mr. Gillaspy] could not now be received, but the committee could be instructed to consider it.

Mr. HARRIS. I move to amend the motion made by the gentleman from Warren [Mr. Todhunter], so that these reports be referred back to the standing committee upon this subject, instead of being referred to a special committee. The members of the standing committee have paid more attention to this subject, and are better prepared to know what the feelings of the convention are upon it than any other members here; and, therefore, they can more readily make a report which will harmonize with the feelings of the convention, than can a select committee. It will be a saving of time to refer these reports back to the standing committee, and we will accomplish all we desire to accomplish by so doing.

Mr. GILLASPY. I hope myself that these reports may be referred to the standing committee upon this subject, for the reason that the gentleman from Des Moines [Mr. Hall]—who is not now in his seat—has given this subject a great deal of attention, and would be glad to have these reports so referred. Let them go together, and let the committee make a compromise of some kind.

Mr. SKIFF. I hope these reports will not be referred now. There was a new matter introduced yesterday into the discussion in relation to the disposition of the school fund, upon which there seems to be a great variety of opinions. It strikes me that we might just as well come to some decision upon this matter now, as to decide it after reference of these reports to a special committee, or to the present standing committee upon this subject. I hope that the motion to refer these reports will not be pressed until we have had a further interchange of opinion upon this subject of the disposition of the school funds. I do not think that the committee on education and school lands are yet aware whether the convention desire to have a new system, or continue the old one, so far as retaining the funds in the different counties of the state is concerned. I hope the convention will come to some conclusion upon this question before this whole matter is referred.

Mr. WILSON. I hope the amendment offered by the gentleman from Appanoose, [Mr. Harris] will not prevail, and that the motion of the gentleman from Warren, [Mr. Todhunter] will be adopted. I cannot see the necessity or

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propriety in sending these reports back to the standing committee on education and school lands. We have already had an expression here of the views of a majority of the convention upon these reports. I have no objection to placing the gentleman from Des Moines, [Mr. Hall] upon that select committee, but it seems to me, if we refer these reports back to the standing committee, we shall probably get in substance what we have already had. I think it would be better to have a select committee, composed of members who entertain different views upon this matter, and they may be able to present a report upon which the members of the convention can harmonize. I am satisfied that the report we have been considering, so far as it has passed, cannot be ordered to a t ird reading. I am satisfied, too, that the proposition offered by the gentleman from Lee, [Mr. Johnston] cannot pass the convention, and I presume that that gentleman is not at all disposed to press that matter at present, and would certainly have no objection to his proposition being referred to a special committee. I hope that the motion to refer these reports to a special committee will be agreed to.

Mr. WINCHESTER. I hope this matter will not be referred at all. I have inflexibly voted against the reference of any subject to a select committee, after it has been acted upon, and reported by a standing committee. It has been urged by gentlemen here that a reference of this matter would save time. The reasoning to my mind is perfectly fallacious, for I have observed that on every occasion when we have had reports from select committees, a great deal of time has been occupied in discussions, and I think probably a good deal more than would have been the case, had the reports been allowed to take their usual course.

I have also noticed from the past action of the convention, that a proposition introduced here by a single member of the convention has just as much influence as the report of a committee. I do not think that the reports or opinions of any committee have governed this convention very much I hope the motion to refer these reports will not be agreed to. If they should be referred, I would inquire what business is there to take up the time of the convention to-day. We have already adopted a resolution to adjourn on Wednesday next, and I think the convention will find plenty to do next Monday, Tuesday and Wednesday, if this matter is disposed of to-day.

Mr. CLARKE, of Henry. I presume there is no wish on the part of any member here to do anything, in connection with this matter, which will infringe upon the province of the standing committee. We have all listened to the discussions that have taken place here upon this subject, but very few of us have participated in them, for they have been mainly confined to the members composing the majority and minority of the standing committee We have now gone through with the majority report, and have considered it fully; but still, after having done so, and having made the necessary amendments, many members feel dissatisfied with it, and feel as though they were taking a leap in the dark.

I suppose the object of the gentleman from Warren, [Mr. Todhunter,] in making his motion to refer this matter to a select committee is, that they may take the report as it is now amended, give it full consideration, examine it carefully, and prepare a report for submission to this body, which shall reconcile the differences that now exist between the friends of the systems that have been advocated here. To send this subject back to the same committee that made these reports, would bring back upon us separate reports again. If they have been divided once, they will in all probability continue to be divided.

If the members of this committee should request that it might be re-committed to them, or if the chairman of the committee were to get up and move that it might be re-committed to that committee, and assure us that there was a prospect of their uniting unanimously in presenting a report to us, I would then go for the re-commitment. Otherwise, if this matter go to that committee, it should go with instructions. Aside from that, if we are to send this matter to a committee at all, I should suppose we had better select an independent committee from other members of the Convention, who have not participated in this matter at all.

Mr. EDWARDS. As a member of the standing committee on education and school lands, I have taken no part in the discussion at all, and I have not been fully committed to either the majority or the minority report. I was willing to wait until the matter was freely discussed, and then aid and assist, if I could, to compromise this matter between the two gentlemen who have presented these two reports, and dispose of the matter as soon as possible. It appears to me that the suggestion of the gentleman from Appanoose, [Mr. Harris,] is worthy of consideration. Upon the question which has been at issue between the gentleman from Scott, [Mr. Ells,] and the gentleman from Des Moines, [Mr. Hall,] who is reported to be the author of the majority report, they have so far compromised that they believed the question was settled. The only obnoxious provisions that have been introduced in the report have been introduced by other gentlemen in the convention, and not by the friends of the two reports. It seems to me that the best plan to settle this difficulty would be to refer this matter back to the standing committee. I have no doubt that the friends of both the majority and minority reports will go to work and make a proper compromise, lopping off these obnoxious provisions which were made by gentlemen who were not members of the committee. I think the reference of this subject to the standing committee will greatly expedite our business.

Mr. MARVIN. Every member of the convention has discovered, probably, that the issues

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presented here have been mainly between the members of the standing committee. They have probably discovered another thing, that during the discussion of this subject, a spirit of compromise has grown up between the contending portions of that committee, favorable to a correct understanding of the questions involved. It strikes me that no committee can be raised that would be better prepared to make a system acceptable to the convention than that committee which has considered this subject most. It would seem like opening a new subject to refer this matter to a select committee, and they would in all probability bring in a proposition here entirely new to us.

And further, I would say, that those who had engaged in the discussion of this subject, and especially the members of the committee, have become a good deal attached to the principles embodied in the reports, but not so much to the details. A select committee might change the aspect of this matter entirely. If members of the convention suppose that we are going to give up the vital principles which are here reported, they are certainly mistaken. The feeling that has grown up in this convention in relation to school matters, is not going to be sacrificed, though a select committee be appointed. I shall anticipate the consumption of two days more time, if a select committee be appointed upon this subject. If the convention shall see proper to refer this subject back to the standing committee, leaving me off that committee, I shall have no serious objection; but I do most seriously protest against referring this matter to a select committee, whose report when made will consume two or three days of our time, which is now getting to be so precious.

We have, to a certain extent, matured every part of this article and deliberately considered it; but some things still remain in it which are objectionable to a portion of the convention.

Let the article be referred back to the committee then, and they will no doubt, in a spirit of compromise, agree upon a report which will fully harmonise the views of the convention.

Mr. PATTERSON. I am opposed to recommitting this subject; but from what I have heard, from two members of the committee [Messrs. Edwards and Marvin,] I am willing to yield my objections, provided the report be referred to the same committee that reported it. I think our business will be more facilitated, if this matter be referred to the standing committee, than it would be by referring it to a select committee; for, as has been very properly remarked, a select committee composed of members of the convention other than those who were upon the regular committee, would present an entirely new system, which would occupy several days' time of the convention to consider. A spirit of compromise was evinced yesterday between the friends of the two reports, which will induce them to compromise this matter, if it be recommitted to them. I shall vote, therefore, against the motion to refer to a select committee.

Mr. TODHUNTER. I cannot consent that this matter shall be referred to the same committee again. It seems to me that the difficulty, from which we wish to relieve ourselves, might be obviated now. This report has now undergone several changes. Several important amendments have been made to it; several clauses stricken out, and others added. In all this I see no disposition on the part of this committee to compromise Gentlemen are certainly very much mistaken when they say that two or three days time will be spent in the discussion and consideration of the report which a special committee might make upon this subject. This special committee may make a report upon which they will agree, in a few minutes. If we refer it back to the same committee, we will have a report something of the same character that we now have. We have no assurance that this committee will agree, and that they will compromise upon any measure or point that is now at issue between the members of the convention.

This is one of the most important subjects which can engage the attention of the convention. If we make any changes in the school system, they should be for the better. I would rather fall back upon the old system than adopt the system now before us. I am satisfied that the report in its present shape cannot pass the convention, but will be rejected finally. We might go on and spend two or three days more upon this matter, and then it would be voted down, and especially with this last clause which has been added by the report of the select committee with regard to the absorption of the school fund. That must necessarily and unavoidedly weigh down this report, so that it will be rejected by the convention.

The only method, it seems to me, now left to reconcile the conflicting opinions of the convention upon this subject, is to refer it to a special committee. Let them report, and if their report should be objectionable, it can be amended or rejected entirely and something else substituted in its place. I think a reference of this subject to a select committee is the only way in which we can readily and satisfactorily dispose of this matter.

Mr. ELLS. I hope this matter will be referred to a select committee, leaving off every member of the standing committee on education and the school lands. I hope it will go to a committee of wise men, who will take the pains to examine this subject carefully, and report a system that will prove acceptable to the people of the State. I voted yesterday against my own proposition without explaining why I cast such a vote. I voted against it because I wished to leave this matter open, and if we could so change and modify this report of the majority as to make it acceptable to the people of the State, I should prefer it to my own. I should have voted against the majority report, but the chairman, [Mr. Hall,] has made so many concessions, yielding almost every point I contended for in the minority report, that I did not feel like do-

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ing so. But in so voting I did not intend to commit myself to this majority report any further than it can be made acceptable to myself. I hope this matter will go to a select committee, and that they may make a report which will prove acceptable to the convention.

Mr. HARRIS. I ask permission to withdraw the motion I made, to refer this report to the standing committee.

The question was taken on granting leave to withdraw the motion, and it was not agreed to.

Mr. CLARKE, of Johnson. I have taken no special part in this discussion, and I do not feel committed to either of the systems reported here. One thing is settled by this convention, and that is, that we will provide for a board of education, which is to have the management and control of the school interests of this State. I must confess that my objections to the majority report have been in some degree modified by the amendments that have been made to it, but yet it does not satisfy my mind. My main objection is to the details contained in it.

I desire to have it put in some different shape, and for that purpose I am in favor of referring this subject to the standing committee on education and school lands. I am in favor of this course, first, because I think it would be uncourteous to the gentleman from Des Moines, [Mr. Hall,] who is not now in his seat, to refer it to any other committee. He has manifested, all through this discussion, very great interest in the subject of education. It is evident from the remarks he has made, that he has devoted a great deal of time to its consideration, and I am free to confess that in the discussion he has displayed a great deal of ability. He is not present now to express his views in reference to this question of reference, and I am unwilling to be so uncourteous as in his absence to refer this subject to another committee. We have a precedent before us in the previous action of the convention. A few days ago the article on the judiciary, after it was changed by the convention, was referred back to the committee to be put into proper shape. That committee felt bound, by the votes of the convention, to report such a system as would meet the approbation of the body. I think the school committee, after the votes which have been given here, and the expression which has been had here upon this subject, will have no difficulty in putting this report in such shape that it will finally pass the convention.

I rise simply for the purpose of amending the amendment, by adding the following instructions, viz: "To consider the expediency of providing for the election or appointment of the board of education, according to population, and fixing the number of members of said board, with power in the general assembly to provide for an increase of said board, as the necessities of the state may require."

The article now provides, that the board shall consist of one member from each judicial district. I am opposed to constituting the board in this way, for a board so constituted will not represent the people of the state equally. The eastern districts will all of them contain a much larger population than the western districts; and as this is a representative form of government, and as there are no reasons satisfactory to my mind, why this board should not be constituted according to population, and why the people of the state should not be represented, I am opposed to the plan of having this board represented by judicial districts. Such a representation is not fair and just, and, to my mind, the effect of it will be to excite opposition against the constitution.

Again, the proposition leaves the number of members of the board indefinite. The legislature at some session for the purpose of accomplishing some particular object, may do as they did this last winter, increase the number of judicial districts. I would prefer to see this board constituted according to population, with power in the general assembly to increase the number of the members of the board, as the necessities of the state may require. I desire that the subject shall be referred to the standing committee, and that they shall be instructed to consider this subject, so as to make the system which they shall report as perfect as possible.

The question was taken upon the amendment offered by Mr. Clarke, of Johnson, and it was agreed to, upon division, ayes 16, noes 11.

The motion to refer, as amended, was then agreed to.

Mr. CLARKE, of Johnson. I now move my instructions, which I suppose will be in order:

Resolved, That the committee on education be instructed to consider the expediency of providing for the election or appointment of a board of education upon the basis of population, and fixing the number of said board, with power in the general assembly to provide for the increase of said board, as the necessities of the state may require."

The question being then taken, the motion was agreed to.

On motion of Mr. PATTERSON,

The committee were instructed to report on next Monday morning.

Mr. CLARKE, of Henry, moved that the committee be instructed to consider the expediency of incorporating the following provision in the article referred to them:

"The general assembly shall provide by law for the election of a board of education, one member of which shall be elected from each judicial district, and shall be *ex-officio* trustees of the State University. They shall have control of the educational interests of the state, and shall have power to appoint a secretary of the board, who shall be the executive officer, and perform such duties as may be imposed upon him by the said board or the laws of the state. The other powers and duties of the said board

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of trustees shall be such as shall be prescribed by law."

The question being taken, the motion was agreed to, ayes 17, noes 2.

Mr. WILSON. For the purpose of harmonizing the views of the committee, they having disagreed in their former report, I move that two members be added to the committee.

The question being taken, the motion was agreed to.

The PRESIDENT appointed Mr. Todhunter and Mr. Gillaspy upon the committee.

Mr. WINCHESTER offered the following resolution:

"*Resolved*, That the committee on education be instructed to inquire into the expediency of providing for an officer in each county, whose duty it shall be to examine all teachers, and to give certificates of qu lification."

The question being taken, the resolution was agreed to.

Mr. SOLOMON subsequently offered the following resolution:

"*Resolved*, That the committee on education be instructed to report in favor of a gradual collection of the school fund of this state, and loaning the same with interest for a series of years to the state of Iowa, for the purpose of the erection of public buildings, and for any other purpose."

The question being taken, the motion was agreed to.

Incorporations.

Mr. CLARKE, of Johnson. I desire to call the attention of the members of the convention to the article upon incorporations as it has been printed and laid upon our table since its passage; and particularly to section six, which reads as follows:

"Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may provide for the establishment of a State Bank with branches, in addition to banks provided for by general law."

The question in my mind is as to the construction which this section will bear; whether it will not of necessity compel the legislature to provide for a system of free banking, before the State Bank with branches can be created. If that should be the construction, it would not be in accordance with what I understand to have been the intention of the convention. It was intended to leave it to the General Assembly to choose between these two systems of banking. I only rise for the purpose of calling attention to the ambiguity of the language, that it may be corrected.

Mr. WILSON. It was the intention of the committee to leave it to the legislature, that they might establish a free banking system, or a State Bank with branches, or both. I presume that was the intention of the convention.

Mr. CLARKE, of Johnson. I will suggest that if it should read as follows, it will remove the ambiguity:

"Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may also provide for the establishment of a State Bank with branches."

The PRESIDENT. The Chair will suggest that it is to go to the standing committee on revision; and that it may be expedient, to secure a more extended criticism, that it should go to the standing committee on the judiciary.

Mr. CLARKE, of Johnson. I should not wish to have these articles referred to the committee on the judiciary. It would put upon us more labor than we could well assume. I should prefer that the article should be referred to the committee on incorporations, with instructions so to amend that the ambiguity may be removed.

Mr. WILSON. There is probably no difference of opinion with regard to the construction which the convention intended this to bear. I presume the change may be made by unanimous consent.

The PRESIDENT. The subject is not before the convention. The committee on revision can take the responsibility of amending it, as it does not change the sense.

Mr. CLARKE, of Johnson. Is it not too late? This was printed by the order of the committee on revision, and is their report. That brings it before the convention.

Mr. WILSON. I would state to the gentleman from Johnson, that these amended reports are printed for the purpose of giving gentlemen an opportunity to suggest any further corrections that may be necessary.

Mr. CLARKE, of Johnson. Very well. I will leave it to the committee.

Committee of the Whole.

Mr. SKIFF moved that the convention resolve itself into committee of the whole to consider the right of suffrage.

Mr. EDWARDS. I will inquire if that carries into the committee of the whole everything upon the subject, the report of the standing committee, with the rest?

The PRESIDENT. No, sir; only the resolution of the select committee.

Mr. EDWARDS. Then I move to refer to the committee of the whole everything upon that subject.

Mr. SKIFF. I will accept of that amendment.

The question being taken, the motion was agreed to.

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The convention then resolved itself into committee of the whole, (Mr. Winchester in the chair,) and proceeded to consider the subject of the right of suffrage.

Mr. EDWARDS moved that the committee take up first the report of the standing committee.

The question being taken, the motion was agreed to.

Mr. EDWARDS. I will state, for the information of the committee, that this report does not contemplate any change in the present article upon the right of suffrage. It recommends the adoption of the second article of the old constitution; and gentlemen, by referring to that, may have the subject before them. I ask that it be taken up by sections.

Residence of Voters.

Section one was read as follows:

"Section 1. Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote twenty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law."

Mr. CLARKE, of Johnson. I move to strike out "six months," and to insert "one year," so as to require residence in the State for one year next preceding the election, before a man shall be entitled to vote.

I think that one of the most important duties devolving upon this convention is the protection of the right of suffrage. However proper it may have been in the early history of this State to provide that a six months' residence in the State should give a citizen a right to vote, I think that with our present population, and the probable rapid increase of that population, we should increase the time during which parties should remain here before they can become entitled to exercise and enjoy the rights of citizens. I think the great interests of the people of the State require it, and I can see no feasible objection to it. I find upon an examination of the constitutions of the States, as given in the volume which is upon the table of every member, in seventeen States of the Union, one year's residence is required to constitute an elector. In four States two years are required. In six States a residence of only six months is required. Among those which require a residence of one year, are nearly all of the western States—Indiana, Illinois, Ohio. I believe all require a year's residence. I do not propose to enter into a discussion of the question, but merely to state as my reasons for this motion, that it will do no harm, and will probably protect the best interests of the State.

Mr. HARRIS. I differ with the gentleman, for I think it will do no good, and may do harm. I understand that any person, before he can be a voter, must be a citizen of the United States. There is another qualification. He must be a bonafide and permanent settler in the State. Now when a man comes here who is a citizen of the United States, and who intends to make this his home, I do not understand why he is not just as well qualified to vote after six months residence, as after he has resided here a year or two years. It should be borne in mind that in some portions of the State we have still as heavy an immigration from the old States as existed in the older counties at the time when our present constitution was adopted. If this rule acted beneficially when it was adopted some ten years ago, it would act beneficially upon us to-day. Those who come from the older States are, I think, a class of citizens who should not be deprived of voting for a whole year. I do not know what new objection there is to allowing a man who has been in the State for six months, who was a resident of the United States before he came here, and who declares his intention of permanently remaining here, to vote. I hope the amendment will not prevail; for I think it will cut off from the privilege of voting a large and worthy class of men, who would otherwise be entitled to it.

Mr. GILLASPY. I cannot see the propriety of making so many radical changes in the old constitution as are proposed here from day to day to be made. This one proposition, extending the time to a year, may affect a great portion of our citizens upon the subject of the Presidential election, if upon no other. I think a man coming from any other State in this Union into Iowa, and living here for six months, or eight months, would be just as competent to vote upon the Presidential question, one of the greatest questions connected with the right of suffrage, as if he had lived here a year or two years. We are a new State, filling up rapidly; I am not in favor of depriving a large portion of the people of the State of the right to vote at elections of President and Vice President of the United States. It is well understood in this country that the votes for the officers of the country are usually cast upon party grounds. Parties are arrayed against each other in this State, as in all the States of the Union, upon what they conceive to be great principles. A gentleman coming into this State, and living in the community for a period of six months, understanding beforehand the principles at issue, and the differences between the two great political parties of the country, is just as well prepared to vote for men to carry out those principles which he adopts, as he would be if he were to remain twelve months before being allowed to vote. Without detaining the committee any further, I will merely say that I shall vote against the amendment of the gentleman from Johnson [Mr. Clarke,] for this simple reason.

Mr. CLARK, of Alamakee. I am opposed to the change proposed to be made. I believe it is bad policy, anti-democratic, anti-republican,

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and opposed to the principles of a liberal government, to disfranchise an American citizen in any case further than there is a valid necessity for it. I can see no necessity for saying that a person who is a citizen of the United States, who is recognized to be such by the laws of the United States, when he changes his domicil, when he changes his place of residence to the State of Iowa, shall be required to live in this State one year, disfranchised, and deprived of the rights of an American citizen, deprived of the elective franchise for twelve months, simply because he has changed his place of residence from one State to another. If the gentleman who proposed this change, or any other gentleman, will give a good reason for it, I will vote for it; but without some good reason, I shall look upon the change as an arbitrary exercise of power, to which I shall always be opposed, unless I can see a necessity for it.

When a person comes from any other state into Iowa, the only reason in my mind why there should be any limitation upon his right of immediate suffrage, is that we may ascertain whether it is his purpose in coming here to become a permanent resident or not. We ought not to extend the elective franchise to those who would come here for the mere purpose of voting, and return again. The only object of a limitation is to keep out persons who are not actual settlers, who are not actually residents of the state. If a person comes here with a bona fide intention of making this his home, if he resides here, there is no good reason why he should not be allowed to vote here. I apprehend that six months' residence will be sufficient to test as effectually the intention of parties to remain, as a residence of twelve months. And if it will, if the object can be as well accomplished by leaving the restriction at six months, as by increasing it to twelve months, I am opposed to a change. I think six months is long enough. Our state is rapidly filling up, and chiefly by immigration from the older states. When they come here for the purpose of establishing a residence, and when they have attested that by a residence of six months, I believe they have a right to vote. I think we should allow them to exercise that right. I believe it will be conducive to bringing immigrants into this state from other states; and it will work no injustice to any man. I am opposed therefore to the change, and in favor of retaining six months.

Mr. SOLOMON. I am also opposed to the change; and I found my reasons for this opposition upon the fact that it proposes a radical change in the constitution under which we have lived for ten years, during which we have heard no demand from the people for a change. I oppose the amendment also from other reasons. Upon looking through the constitutions of the several states of this union, I find a very great similiarity between them, and from that examination I am led to conclude that a longer time than six months residence in our own state is unnecessary to qualify a citizen of another state who has been exercising the right of citizenship there, under its constitution and laws, so similar to our own, to perform the same duties here. The only serious objection to placing persons from other states upon an equality with older citizens, would occur in my mind in allowing them to be elected to office. It is understood that we provide in many cases that they shall not hold office in this state until they have resided here for twelve months. That provision cuts off that objection. The inducement to office seekers to come here and stay just long enough to get elected, is cut off. I am decidedly opposed to the amendment, for I think there is no necessity for it.

Mr. CLARKE, of Johnson. The argument of gentlemen upon the other side of this question, if it is worth anything, goes against any restriction whatever. This restriction does not impeach a man's intelligence, nor his integrity. It is simply a question of state policy. If we have no questions of public interest here which it is necessary to protect, by requiring a man before he shall be called upon to act upon them to be here sufficiently long to make himself acquainted with the wants and interests of the people, and the various questions of state policy, then there is no use in the restriction at all. This restriction may have been all that was required for a new state; but I think it is not a sufficient restriction for a state containing our present population, and with the numbers of people coming in from other states which are now coming in. I do not fancy, when a man comes here from the state of Virginia, or from the state of New York, or from the state of Ohio, that he knows all about the public interests of this state, and that he is as much prepared to vote in relation to these public interests as we who have staid here a sufficient length of time to become acquainted with them. I do not presume, and it would not be true if I did, that when a man comes here and becomes a citizen of this state, his first business is to sit down and ascertain the policy of the state, and wherein it should be changed. That is about the last thing he would do. When they come here, the first few months are devoted to procuring a home for themselves and their families. This matter of elections, and state policy, and the public interests of the state, are the last things taken up.

As I have already stated, there are seventeen states of this Union who have had this restriction. Now I think we should have it as a matter of state equality. If one of our citizens moves across the Mississippi to the state of Illinois, they do not extend to him the privilage of voting upon questions concerning the public interests of the people, until he has resided there a year. If he goes further south, if he travels across Mason and Dixon's line, and enters the state of Virginia, he has to remain there two years before he can be permitted to vote. So in Kentucky, and so in nearly all the slave states, two years residence is required. It is there a question of public policy. It is a question of state equality. If we permit people coming here from

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other states the same privileges which our citizens enjoy, when they go to these states, it is all they can ask.

There is still another reason for the change. A man should live here not only long enough to know something about the public policy of the state, but in order to be known in the community in which he resides, so that when he goes to the ballot box to deposit his vote, he may be known; so that his right to vote may not be questioned, or if questioned shall be readily substantiated. I regard this as important in protecting the integrity of the ballot box, and the right of suffrage, as they ought to be protected. The experience of the last five years in the state of Iowa shows that the right of suffrage is not guarded with that careful scrutiny with which it should always be protected.

These restrictions will not have the effect of keeping people out of the state. Men when they come here expect such restrictions. They have been accustomed to it at home. There is no man of intelligence who does not agree at once with the propriety of the restriction. If it is proper, and if the history of legislation in this country shows it to be proper, why should we not imitate the conduct of a majority of the states of the Union? Gentlemen have heretofore been willing to adopt whatever they have found in the constitution of other states. This proposition has precedent to sustain it. It cannot be said to be new and untried, because we have in support of it, a large majority of the free states of this Union, while the southern states impose still greater and heavier restrictions. This may look like a small matter, and it is when applied to a mere county or school district upon an ordinary election. But it is not true that it is a small matter when applied to the whole state. We have great state interests which by this kind of voting, may be voted down and destroyed. This is a question of considerable consequence; and I hope the convention will not take it for granted that because we have had the restriction only six months heretofore, it must necessarily remain so. I think as the population of the state increases, and the interests of the people are magnified, this restriction ought to be increased; and such is the policy of every state in the Union.

Mr. CLARK, of Alamakee. If the gentleman's theory is correct, the State of New York ought to require a man to spend six or eight years there before he could be allowed to vote. If our State with a population of six or seven hundred thousand inhabitants, requires a residence of a year, the great State of New York, with its six millions of inhabitants, should require a residence of five, six, eight or ten years, because the man could become sufficiently acquainted with such extended wants and diversified interests. I do not believe that it depends at all upon the number of votes or inhabitants of the State I have paid some little attention to the reasons my friend has offered for the enlargement of the time, and I can see no solid foundation to them.

In the first place, is it necessary for a man to live in the State a year, before his neighbors know whether he is a permanent resident or not? A man is known in the neighborhood where he is obliged to vote, before he has been there six weeks; and the only question which comes up in most cases is whether he has been there six months or not, not whether he is a resident there or not. And if the time is changed to twelve months this difficulty is rather increased than diminished, for then the question will come up whether he has been a resident twelve months or not, especially when the time of his residence varies but a few days or a week from that time. These questions will always arise, whatever the time you shall fix. The objection is not obviated at all by lengthening the time. Indeed, the longer the time which elapses after the man becomes a resident, the more likely will the question be to present itself, and the more difficult to prove upon what day he commenced his residence.

The next serious objection is this: that for the first six months a man has other business to call for his attention, and that he does not become acquainted with the laws, the policy, or the institutions of the State until afterwards, but after everything else has been disposed of, then he sits down and turns his attention to this matter. This has not been my experience. It has been my experience, that as a general thing, when people move from an old to a new State, they sit down and look over the institutions of the new State to which they propose to move, examine the policies of the different States, and the spirit that pervades the constitution and laws, before they decide to move at all. I know I did it, and my neighbors did it, before they left the old States. The policy of a State has a great and a controlling influence in determining such persons as to the State in which they will settle in going west. If the policy of a State is found not to be liberal, it has a great influence in determining people from the east to seek some other residence. I have no doubt that in nine cases out of ten these emigrants from other States understand the policy of our State before they come here, as well as after they have been here a year.

The gentleman says that most of the States require a year's residence. But most of those States are the old States, whose constitutions were framed long ago, when republicanism and democracy were in their infancy, when it was believed that there were a great many men who were not capable of self-government, so that it was necessary to put all these restrictions and checks around it. This disfranchisement of the new residents will be found to be curtailed in the new States, which have more recently come into existence, many of which have reduced it to six months. Another argument, I was a little astonished that the gentleman should bring up here. While the nothern States have so generally adopted one year, he says that south of Mason and Dixon's line, we find the time in-

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creased to two years. Is the gentleman in favor of that? Let us inquire, where are the most liberal principles advocated and carried out, in those States which have the restriction of twelve months, those which have made it twenty-four months, or those which have reduced it to six months? And if you carry out the doctrines towards which this change tends, where will it lead you? I believe that six months is all the time that is necessary to disfranchise American citizens and deprive them of the right of suffrage, merely in consequence of their having ceased to live in another State and come into this. I think there is no necessity for twelve months, no valid reason for it, and that it is wrong in principle. I shall, therefore, vote against it.

The question being taken, the amendment was rejected.

Mr. CLARKE, of Johnson, moved to amend by striking out "twenty," and inserting "six months," so that the section should require a residence in the county for six months before the party should be entitled to vote.

Mr. HARRIS. That is worse than the other.

Mr. CLARKE, of Johnson. I make this proposition in good faith, and because I think that the public interests of the State require it. I will call the attention of the Convention to the fact, that, for the last five years, it has been a common thing for elections in this State to be carried by a system of pipe-laying. Grave charges have been brought against both parties, that, upon the eve of an election, they would send men into the different counties and keep them there for twenty days in order that they might be qualified to vote there, and thus those particular districts would be carried. If gentlemen sincerely desire to protect the ballot-box from these outrages, and to prevent the leading men of either party from engaging in this kind of fraud upon the right of suffrage, I trust they will unite with us in extending this time. If six months is too long, the Convention can reduce it; but I think every member upon this floor will be convinced of the necessity of extending this time beyond twenty days. At the suggestion of the gentleman from Lucas, [Mr. Edwards,] I will modify my amendment and make it three months. It is my own opinion that six months is none too long.

Mr. CLARKE, of Henry. I occupy the same position, in regard to this matter, that I have heretofore occupied, that of extreme liberality. I see exactly what gentlemen wish to attain by this amendment, but think it will not accomplish their object. I think there is only one way for the people of this State to gain the object which gentlemen are aiming at; and that is by providing a registry law—for I may as well come out and say just what I mean. We are now at the advent of a railroad era. There is a large floating population who care not in what State or in what county their residence may be; and this is the material with which demagogues carry on their operations. We saw this at the last election. We see it in every election. We see it in the public papers all over the country. I saw it stated in the Louisville Journal that all the hands upon the public works in that State had been passed over into Indiana, where their votes were required. And a month before the election we saw it heralded that the Empire Club had gone over from New York City and colonized around Philadelphia. We saw it proclaimed in different parts of Illinois that this floating population was coming in and becoming colonized; and I can point to the very localities and the changes made in the votes before and after the election, by men voting under the laws of the States where they had no right to vote. These are evils, we must all agree, without any distinction of party.

The gentleman from Appanoose, [Mr. Harris,] asked me with an air of triumph, if I did not believe in what was called the Know Nothing party. I told the gentleman that I did belong to the Know Nothings, and that I am still just as much of a Know Nothing, in that respect, as ever I was. I still cling to the American principles, as I understand them, but not as they were carried out, after they had been re-moulded to suit southern masters at Cincinnati and Philadelphia. Then I left them, and have never had anything to do with them since. The real American principles are simply these: that there are great evils which this country has to suffer, not so much from its foreign vote, not because foreigners were allowed to participate in the blessings of the government, not because they are permitted to hold office, but because it so happens that they form the material with which demagogues work. Nobody, who has eyes to see and ears to hear, can for a moment be mistaken in this matter, when he goes into any of the old States. I tell gentlemen that the time is coming when we shall feel that evil here. Men are now beginning to perceive that there must be some guard, more than we now have, or our ballot boxes will not be secure. I see the necessity for a movement in this direction, not against the foreigner, but against the demagogues; against Rynders, and men of that stamp, who associate themselves together to control this kind of vote—this foreign vote. Gentlemen make this distinction themselves, when they take this out of politics. When they go to an election they see a certain body of men come up there and cast their vote as a unit, upon one or the other side, and they know that those men are casting their votes under the direction of leaders, and that they are the material with which demagogues work.

I stand here for myself alone in this particular, representing nobody but myself. I speak as an American citizen, when I say that this is an evil to be deplored, and that I will go as far as he who dares to go farthest in extending to all the greatest liberty, when they will cast their votes in the locality where they belong, when their vote is not transferred from one district to another, in order to turn the election. You will

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never find me to retract my principles of allowing them a fair and honest vote, such as is given to every other citizen. It is not that they are allowed to vote that we complain. It would be unjust to deny them that right. But we complain of an absolute evil here, that these votes can be shifted from one state to another, from one district to another, from one precinct to another, everywhere, all over the country. And hence it is that people have at last found it necessary to throw around the ballot box these restrictions.

Mr. HARRIS. I will ask the gentleman whether he favors this restriction or opposes it?

Mr. CLARKE, of Henry. The gentleman will learn before I get through, if he will have patience. I believe the gentleman is the most difficult to satisfy upon this floor, but if he will wait a little while, he will learn exactly my position; and I suppose that is what he is after, as he took pains to ask me about it the other day.

The evil is the shifting of the vote from place to place, and not the vote itself. When a proposition is made requiring a residence for a certain specified time in one place, it is to prevent this shifting process. It is supposed that if we should require them to remain in the precinct for three months before they would be entitled to vote, they could not remain there for that length of time before the election unless they wanted to secure a *bona fide* residence. The politicians and demagogues would not go to work so long beforehand, to say, there is a district where the democrats have a majority of five hundred, so that if we can only send in six hundred republicans there we can carry the election; and then to take their measures to send the men and to keep them there for that length of time. The gentleman who moves the amendment thinks it will be an effectual remedy for the evil to require a residence of three months, because the demagogues will not be prepared to go into these calculations and arrangements so long before the election. I disagree with him. I think that is not the way to reach it. I think that whenever an important canvass is approaching, men will go into the different districts and claim a residence there, even three months before the time of the election. But if you establish a registry system, which no honest man need be opposed to, there need then be no fear of permitting all classes to vote, even including the colored citizens. If you establish the law that every man who goes to establish a residence shall have his name registered as a voter, then I think you will have arrived at something which will protect the purity of the ballot box, something that will be a check upon the demagogues who trade in votes.

It is without any unkind feelings, but, on the other hand, with the most liberal and generous feelings toward all classes, wishing to extend to them the blessings of our government, wishing to perpetuate republican institutions which will throw around them safety and protection, that I am for denying to them that which we cannot grant while we would preserve the purity of our ballot box and system of voting; and it is for these reasons that I am in favor of a registry system. But anything that looks to cutting off American citizens, citizens of the United States, either of adoption or native born, who are honest men, from voting where they belong and where they reside, that I am opposed to. I agree that the American citizen ought to be allowed to vote for officers of the general government. I wish it could be so regulated that this right could be exercised wherever they might be. But then comes in that other evil, that it will allow the vote to be shifted from one point to another, and thus to be used to turn the election in this precinct or in that precinct. We must therefore have these guards and checks somewhere. If we cannot have it in regard to time, let us have it in regard to a registry law, which I think more equitable, and more certain to attain the object at which the gentleman is aiming. I am, therefore opposed to extending the time, but in favor of registry laws.

Mr. PRICE. I think the question was very well asked by the gentleman from Appanoose [Mr. Harris,] which side of the question the gentleman from Henry [Mr. Clarke,] was upon. I believe he has argued a registry law bill here. There is no such proposition before the convention. So far as the proposition of the gentleman from Johnson [Mr. Clarke,] is concerned, I shall certainly oppose it. I am opposed to everything which tends to impose restrictions upon the exercise of the elective franchise. I may, perhaps, be more deeply interested in this question than the gentleman from Johnson, as I represent a portion of the State which is rapidly settling. I see no reason, certainly not upon the ground of capability, for preventing a citizen from exercising the elective franchise, even if he should not happen to have lived in the country where he wants to vote, for a period of three months. If it comes to a question of time, I would blot it out altogether. What are these county lines, and what are these counties, politically? They are mere organizations for the purpose of carrying on the business of the State at large. A man who has resided in the State, indentified with its interests, perhaps for twenty years, if he happens to move across a county line, is disfranchised. This is all wrong. I would blot it out, so as to give to the man who is a citizen of the State, who is identified with all its interests, the right to vote at every election, whenever the ballot-box is exhibited. Why shall we establish a limit of three months? Does this three months' residence in a particular county render him any more capable of voting than he was before? Why, sir, twenty days will not do it. Time never skills a man in political wisdom. It does not qualify a man to cast a more intelligent vote—a vote better calculated to advance the interests of the State, than he would have cast before. The only question

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I would ask the man would be: Are you in fact an American citizen? So far as the time required for residence in the State is concerned, I would so regulate it, if I could, as to prevent the exclusion of any citizen from the exercise of the right of suffrage so far as the administration of the national government is concerned. This is all folly, it is all wrong, to say that any man in the State shall not vote for President of the United States because he does not happen to have lived in the State for six months or a year. But since there must be a line somewhere, since I cannot prevent it, I shall vote for the shortest time so far as residence in the State is concerned, and the shortest possible time so far as residence in the county is concerned.

There is no reason in the argument of the gentleman so far as pipe-laying and fraud are concerned. These are things you cannot prevent. Corruption will exist. Provide your laws as you will, you cannot entirely prevent it. I am therefore in favor of the most liberal provision, and the shortest possible time, to dispense, as far as possible and as often as possible, with every infraction of the exercise of the elective franchise.

Mr. HARRIS. I am right glad that my friend from Henry [Mr. Clarke] has, even at so late a day as this, answered the question I asked him so long ago; and I hope my uneasiness and anxiety has not been troublesome to anybody here, unless, perhaps, to the gentleman himself. If I could have been right well convinced that I was as difficult to satisfy as is that gentleman, and had caused the rest of this convention as much trouble to have my views harmonize as he has, I should have kept myself quiet long ago.

As to the charges made here concerning corruption getting into our elections, and, consequently that changing the term of residence is necessary, I have only to say to the gentleman from Johnson [Mr. Clarke], that his admission of these things against his party, saves us the trouble of proving them. Now, we do not admit them with regard to our party at all. But even if such was the case, the proposed change does not obviate the difficulty. If men are so steeped in crime and corruption that, in case of these elections, they will import voters to accomplish their purposes, all they would have to do under this change would be to extend their allowance to three months, instead of but twenty days. According to the gentleman, this is done by a system of pipe-laying, in political phrase. This may be so, though I do not understand it. There may have been one or two occurrences in this State; I have heard something of one or two of them. It may prevail in the gentleman's own party, but I am disposed to say that it does not, notwithstanding he seems inclined to admit that it does.

Mr. CLARKE, of Johnson. There are some gentlemen upon this floor who seem to have no other capital than to misrepresent, and give a party aspect to everything said here. I regret that such men are to be found here or elsewhere. If there is any credit and glory to be obtained by that course of conduct, they are welcome to it.

Now, I apprehend that the gentleman from Appanoose [Mr. Harris] is one of this class. I made no charge of pipe-laying against any party; nor did I admit that my own party had been guilty of any such thing. I did say that the charge of pipe-laying had been mutually bandied about between the two parties, but as to the fact whether the charge was true or not, I did not undertake to determine.

It is an old adage that he who first cries "stop thief" is pretty apt to feel some consciousness of guilt. And when the gentleman undertakes to argue that what he styles my admission here is proof that the party to which I belong is guilty of pipe-laying, he shows a consciousness of guilt himself. I have not descended to anything so small as that. I trust that while I occupy a seat upon this floor, I shall not act as has the gentleman, but in accordance with the dignity and the propriety of my position here.

In submitting this proposition to amend, I did so because I deemed it to be my duty to do so, and because my constituents felt a desire for some change in this respect. It was from no partisan motive or interest that I did so. There is a reason for it, and that reason is simply this: we are about to inaugurate a new public policy; we are aiming to devise a system by which the public improvements of this State may be constructed. Within the next ten years it is more than probable that we shall have an influx of population in our State, of those who have no interest with our people, and who will leave us when the public works are completed, which induced them to come here. If the members of this convention desire to place the people of this State at the mercy of this class of population, well and good; they can do so. But I do not mean that it shall be done with my consent. I mean at least to endeavor to do something to render this right of suffrage valuable in itself to subserve the purpose for which it was designed.

I do not mean to cast any reflection upon those who may come into this State to labor upon these public works. If I was seeking to deprive them of some natural right, to take from them something which belongs to them, there might be some force in the arguments of gentlemen upon the other side. But I do not propose to take from them any natural right. I am restraining them, in no sense, in the exercise of their liberty; I am merely seeking to subserve the true interests of those who have made this State their home, and who expect to rise, prosper, or fall with the rise, prosperity or decay of this State.

Let me refer to an instance of the effect of the provision in our present constitution; a case that occurred in my own district, and one, too, that is of common occurrence throughout the State. Some twenty days before the election last November, a number of laborers came from the neighborhood of the gentleman from Scott

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[Mr. Ells.] to work temporarily upon a building here. They remained here until the day of election, and voted here, though they expected to leave as soon as the job, upon which they were at work, was completed They had no interest in the selection of a delegate to this convention. They are now represented upon this floor by the gentleman from Scott. And yet they came into this county, and exercised the right of saying whom the people of Johnson and Iowa counties should send to represent them in this convention. They had no just right to vote here, but should have voted where their residence was in reality. This is a common occurrence all over the State. And I say if you let this provision remain as it now stands, you open the door to a system of fraud upon the right of suffrage, which may be detrimental to the best interests of the State.

I do not want to go into these charges. But we all know that in the late Presidential election the charge was made, and strong evidence brought forward to sustain it, that this system of pipe-laying, and fraud upon the ballot box, had been carried on to a great extent in many States of this Union. We are surrounded by States in which the same thing may be done. I will not say that it has been done, for I will not deal in imputations. But I will say that it may be done, and that fact is enough to lead us to incorporate some restriction in the constitution. We were sent here to protect the rights of the people. Yet the dearest right of all, that of the people to choose those to make their laws, by which they are to be governed, is to be left without any guard or restraint thrown around it.

I must be allowed to say that I am somewhat astonished at the opposition of the gentleman from Henry, [Mr. Clarke.] I am like the gentleman from Pottawatomie, [Mr. Price,] somewhat at a loss to know upon what side of the question he is; and I might, with the same pertinency, put to him the same question put to the gentleman from Marion, [Mr. Gibson,] by the gentleman from Clayton, [Mr. Scott] some evenings since. The gentleman from Henry says he will go for a registry law in order to protect the people from frauds. And yet I think the gentleman must know that, without a provision requiring a residence of a certain time, the registry law will have no value, for frauds can be practiced upon the registry law, as well as upon the ballot box. The two will do very well together, and I moved this with the intention of also moving the other proposition.

I am serious in this thing. I have kept aloof from the politics of the State, and have voted as my judgment dictated. During the last five or six years I have voted for as many democrats as whigs, and as many whigs as democrats. I have watched the progress of parties during that time, and the conviction has been forced upon my mind that it is necessary to throw this safeguard about the ballot box. What will be the effect of it? Suppose that it should be, as I anticipate, that when we bring men from abroad to construct our railroads, and other internal improvements, and those composing these corporations want to carry a particular district, and elect a particular man without regard to the interests of the State, how easy it would be for them, with a constitution as ours now is, to import voters, and keep them for twenty days in any particular district or county, and put upon that district or county men they do not desire; and this will be done by men who have no interest in the welfare of the community, and who, after they have accomplished their purpose here, will leave to serve some other State in the same way. This has been done heretofore; and it is our duty, as wise legislators, to devise something by which to prevent the same occurrences in our own State.

Mr. SCOTT. I think there is another very good reason why this extension of residence should be made, and not permit a person to vote after having been but this limited time in a county or district. The gentleman from Pottawatomie, [Mr. Price,] contends that the true principle is merely to require that a person shall have a *bona fide* residence in the district where he offers to vote. This he claims is all that is requisite and necessary. Now I think we have precedents enough to satisfy any man, that that is a very unsafe mode by which to determine whether or not a man has the right to exercise the elective franchise. There is a sister State to the south where they take the same view of this question that the gentleman from Pottawatomie takes. They contend, as gentlemen here are well aware, that wherever a man may happen to be, no matter under what circumstances he may have arrived there, he has a right to vote at any and every election where he happens to be.

Gentlemen should take this matter into consideration, and determine whether it is right, just or equitable, for citizens of neighboring states, who may happen to be here, to have the right to vote because they may happen to be here at the time of an election. I have no desire to urge this matter for party reasons, or to make it a party test. It may work as much against the interests of one party as of the other. The citizens of our sister state, who have taken so active a part in transporting voters to a neighboring territory, are themselves upon the eve of an important crisis in their own affairs; and during the struggle for emancipation in that state, if the doctrine should be carried out that the moment a man touches their soil he has a right to vote there, these border ruffian advocates could have no reason to complain if abolitionists from Iowa should go over there and vote for the abolition of slavery in Missouri. Yet, would it be right for abolitionists to go there and, even after twenty days residence, vote for the emancipation of slaves, in whom they are in no ways directly interested? Certainly, such a principle as that is not right. And will we leave our state as unguarded as that, so that when the time arrives when dear

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and important interests to our people are involved, men from Missouri can come over here, remain twenty days, and vote away our rights, as they have done in the territory of Kansas?

There is a very important principle involved in this matter, and it behooves gentlemen to look to it carefully, that they may know how to act. We should provide here, if possible, that all who vote in this state should have a common interest with the people of the county or district where they may vote. They may be residents of the state, and still have no particular interest in the affairs of the county where they may happen to be at the time of the election. I think it is very proper, and but safe, that some restrictions should be thrown around the residence of voters in counties, as are thrown around them in relation to their residence in the state. If it is deemed necessary that they should reside one year in the state, before they can know the wants and interests of the state, why is it not equally necessary that they should reside the same length of time in a county, before they can be supposed to know the wants and interests of that county? The principle is the same in both cases. A short residence of twenty days in any county will not enable them to know the issues involved in the contest, or to judge with any certainty of the merits or demerits of the candidates put in nomination. They can know nothing of them except by hearsay. They may form even a slight acquaintance with the candidates in twenty days. But are the probabilities in favor of their doing that? Or will they not rather vote purely under party influence, and not according to their own sense of justice and right, as regards the wants and wishes of the permanent portion of the community, and thus against the dearest interests of the county?

If the principle is wrong when applied to states, it is equally wrong when applied to counties in any way. Nor would I impose too great a restriction upon voters, by making them remain in a county too long; but I would impose restrictions so stringent that they would be obliged to reside a sufficient length of time to make their interests identical with those of the county in which they vote.

Mr. EDWARDS. I do not intend to discuss the merits or demerits of a registry law. So far as my experience and observation of a registry law is concerned, I should say that it was inapplicable to our state. It would apply with good effect to states with a dense population, but in a sparsely populated state like ours it would not answer.

So far as the question now before us is concerned, I think there can be no doubt in the mind of any gentleman here, but what the elective franchise and the purity of the ballot-box should be strictly guarded. But it is a matter of opinion whether the term of residence should be fixed at twenty, thirty, sixty days or six months. That great frauds have been perpetrated upon the elective franchise, and that the purity of the ballot-box has been invaded, the history of this country for several years past is sufficient proof. The rule requiring some certain time of residence, before a person is allowed to vote, is a good one. The only question is as to the length of time that should be required before a person shall be allowed to become a citizen of a county or district, and allowed to vote. I think that twenty days is too short a period of time, for the reason that it holds out inducements, in the case of local elections, such as the removal of county seats, the taking stock in railroad companies, &c., for parties to import votes from other districts, for the purpose of carrying some special object.

I will allude to one occurrence that took place, I think in the county of Lee, last year. There was a vote taken there upon a proposition to subscribe stock to a railroad, and, if my memory serves me, in the district of Fort Madison there were nine hundred votes cast, while they never before or since gave more than five hundred votes. I do not know what were the bearings of the question then before the people. But I have no doubt but what the question was one of such an important character, and involved such pecuniary interests, as to induce wealthy men and property holders to go into other counties to obtain voters to be imported there, to work for twenty days, for the purpose of being entitled to vote, so as to accomplish some particular object they had in view.

Suppose that it was a favorite measure with certain individuals in this county that it would take a large amount of stock in a railroad, and there was to be a vote taken upon that proposition. These individuals could make it to their interest, and would doubtless do so, to avail themselves of the opportunity of obtaining persons from other counties to come here and remain for twenty days, in order to carry their project.

Now, if the object to be attained here is a proper and a just one; if it is no party measure, but merely designed to protect the purity of the ballot-box, no one can object to the principle of the thing. The only question is as to the length of time to be required before a person shall be allowed to vote. We have a case in point, within two years past: when, if in the territory of Kansas there had been a provision in the organic law, requiring persons to be residents there a sufficient length of time to enable them to become identified as actual, *bone fide* citizens, all the trouble and difficulty that there occurred, and which has shaken this government to its very foundation, would have been avoided. I have heard gentlemen say, in relation to the outrages committed in Kansas, that the same were practiced in Nebraska by the citizens of Iowa, for the purpose of carrying the local elections in that territory. I have heard that assertion repeated a dozen times, I should think. But that makes the case but the stronger.

Now, I ask gentlemen to pause and consider if this thing is right? If so, then let them go with the gentleman from Pottawatamie [Mr.

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Price,] and open the sluice-gates, and let all this flood of evils come into the State, and control the destinies of the *bone fide* citizens and property holders here. But if the principle of protecting the elective franchise and the ballot-box is right, then I say throw around them some wholesome restrictions. If the principle is an honest and just one, it will injure nobody to put it into practice here.

I am not tenacious as to the length of time we should agree upon here. If three months is considered too long a time, then put it at sixty days. But it does appear to me that some time should be adopted, and that twenty days is too short.

Mr. HARRIS. I desire to say a word or two here by way of explanation. I certainly was not aware that there was anything in the remarks I made a few moments since that should provoke the ire of any gentleman here. I did intend to repel the insinuation that pipe-laying as a general thing was prevalent in the politics of this country. I was not aware of making any charge against any party. I said that if gentlemen thought proper to admit that that system was practised by their party, it would save us the trouble of proving it. But I repelled the charge, so far as the party to which I belonged was concerned.

As to my having done anything so inconceivably small in this matter, all I have to say is, that I think every man will eventually find his own level. And I apprehend that when gentlemen who are so quick to criticise others come to examine the records of this convention, they will perhaps find their level to be quite as low as that of some others.

Mr. MARVIN. I think I can appreciate the feelings of the gentlemen who desire to have those restrictions placed about the privilege of voting in counties, especially as regards the vote of counties upon taking stock in railroads. But I am not certain that the plan proposed is the best way to accomplish this object. If it is necessary that men should be in a county for three months, in order to carry a favorite object of certain individuals, or a certain class, they will be there three months, or even six months, as far as that is concerned.

But I think there is, after all, something wrong in saying that a man shall lose his vote at an important election just because he may have removed his habitation perhaps ten rods from where it formerly was. I have a case of that kind in my mind now, where one candidate at the last election lost one vote, and I had one cast against me, under the operation of such a requirement. A man moved into his county a few days previous to the election. He had previously been a voter in Jones county for years; and he had to come back into my county to vote against me. Such a practice may seriously affect an important election.

If a man is but a transient resident, he should not be allowed to vote. But the very day he becomes a *bona fide* resident in any county, he should be allowed to vote in that county, for the action of the representative from his county will affect him, and the action of the representative from his old county will not have any direct application to him. But if he is in a county merely for transient purposes, though he may be there for six months or a year, he should not be allowed to vote under any such circumstances.

It seems to me that if gentlemen can shape this constitutional restriction so as to make the *bona fide* residence of a man the standard by which to govern his right to vote, I should be inclined to go for it. Though I appreciate all the difficulties that surround this subject, I believe if anything of the kind is to be incorporated here, that which I have indicated is the proper provision. But I do not know that it is necessary. It seems to me to be a proper subject for legislation, and I am surprised that the legislature of Iowa has heretofore passed this matter over without making some provision of this kind.

Mr. GIBSON. It appears to me that there has been sufficient discussion upon this subject. We are whiling away the time of this convention arguing this question, when, at the same time, I presume all this discussion will not have the effect of changing a single vote.

I do not know what is the feeling of this convention upon this subject. I do not know which way the majority intend to vote. But I do think that every gentleman here has his mind already fully made up in regard to the vote he will give. I suppose that every gentleman can justify himself to his own satisfaction before his constituents, without longer procrastinating the session of this convention. I would, therefore, very much like to see a vote taken upon this question immediately.

We have but a short time to remain here, unless we rescind the resolution to adjourn on the fourth of next month. We have no very important matters before this convention now that we cannot easily dispose of. I suppose we are all anxious to go home, where our own business requires our presence. I would ask, is it important or absolutely necessary that we should remain here hour after hour arguing this question when there is no probability that the mind of a single member here will be changed by so doing? I make these suggestions for the consideration of members here—not that I would apply the gag to any gentleman—but that they may think of them and see if I am not correct.

Mr. PALMER. I was in hopes when the standing committee upon this article had reported it as it now stands in the present constitution, that the convention would pass it without dispute. But gentlemen have a right to offer amendments, and, therefore, we must pass the article with such amendments as the majority may see fit to adopt.

I do not propose to take up much of the time

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of the committee in what I may say upon the question now before us. I believe that, so far as my knowledge extends, the article as it stands in the present constitution is entirely satisfactory to the great body of the people of this State, and that they do not desire any change in it. According to my recollection, I heard no suggestion of change previous to coming to this convention. It is more necessary that but a limited period of residence in a county should be required of voters in a State circumstanced like our State, than it would be in older States where the population is not so migrating as we are here. We know that the people of our older counties are constantly moving into the new counties; and though not changing their residence from one State to another, they are yet changing their residence from one county to another in this State. And are they not just as well qualified to vote in this State, after changing their residence from one county to another, as they were before? I think they are, most undoubtedly. I think we should not disfranchise them merely because they sell out in the older counties and remove their habitations to the newer ones.

The gentleman from Jones, [Mr. Marvin,] says there should be some provision requiring the residence of a voter to be permanent and *bona fide*, and that that is all that is necessary. The article as it now stands does that. It requires that they shall have a residence in the county in which they offer to vote of twenty days. What is that but a permanent residence? I do not think that a man can be said to have a residence in a county, unless he settles there with the intention of becoming permanently located there. Our legislature has provided all that is necessary, by requiring an oath to be taken by every voter, when he is challenged, that he has been a resident of the State for six months, and that he is at the time a resident of the county, and has been such for twenty days preceding the election. That, I think, is all that is sufficient.

Mr. CLARKE, of Henry. I desire to make a single remark further upon this question. I do not know as I should do so, but I desire to have gentlemen fully understand my position. My view of the matter is, that to require an extension of the term of residence would be to work a great wrong to the actual and *bona fide* resident. For instance, take a city, where before the election persons remove from one ward to another. If you extend the term of residence to three months, you would cut off a large number of persons from voting.

I thought that I had explained myself so definitely upon this point, when I was up before, that gentlemen could not misunderstand me. I said that I was opposed to requiring a term of residence longer than was necessary to establish the fact of a *bona fide* residence; and that I was in favor of a registry law. I went into no general explanation of what such a registry law should be. But I would suggest that it might be such a one as would take the name of every individual who should be in the county twenty days before the election, each person who registers his name to be required to do so under oath, if thought necessary. This list could be open to inspection, and if any person chooses to examine and inquire into it, would have sufficient time to do so before the election. I therefore hold that the registry law is far preferable to the extension of the term of residence proposed by this amendment.

The question recurred upon the amendment of Mr. Clarke of Johnson, to strike out "twenty days," and insert "six months," so as to require a person to reside in a county six months before being entitled to vote therein.

The question being then taken, upon a division, it was not agreed to, yeas 11, nays 12.

Registering of Voters.

Mr. CLARKE, of Johnson, moved to amend section one, by adding thereto the following:

"And the general assembly shall provide for registering the legal voters of this state."

The question being taken upon the amendment. upon a division, it was agreed to, ayes 14, nays 11.

Mr. HARRIS moved that the committee rise, report progress, and ask leave to sit again.

The question being taken, the motion was agreed to.

In Convention.

The PPESIDENT having resumed the chair,

The CHAIRMAN of the committee of the whole reported that the committee had had under consideration the subject referred to them, had made some progress therein, and had instructed him to ask leave of the convention to sit again.

The report of the committee of the whole was received and leave granted accordingly.

On motion of Mr. TODHUNTER,

The convention took a recess until 2 P. M.

EVENING SESSION.

The convention re-assembled at 2 o'clock P. M., and was called to order by the president.

Committee of the Whole.

The consideration of the article on the right of suffrage, was then resumed in committee of the whole, [Mr. Winchester in the chair.]

Right of Suffrage.

The CHAIRMAN stated that when the committee rose, they had under consideration sec-

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tion one, of the article on the right of suffrage, which had been amended to read as follows:

"Section 1. Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the state six months next preceeding the election, and the county in which he claims his vote twenty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; and the general assembly shall provide for registering the legal voters of this state."

No further amendment being offered to this section,

Section two was then read as follows:

Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to or returning therefrom."

No amendment being offered to this section,

Section three was read as follows:

Sec. 3. "No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger."

No amendment being offered to this section,

Section four was read as follows;

"Sec. 4. No person in the military, naval or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place or station within this state."

Mr. GOWER. I move to amend this section by adding to it the following:

"Nor shall any student in any seminary or institution of learning, in consequence of being such student."

I have known instances where students at academies have controlled elections of a local character, and in the state of Maine, from which I came, the clause I have proposed here, has been incorporated in their constitution. If it is not inserted here, I should not wonder if some elections in this state should be controlled by students. This provision is not intended to cut these students off from the rights of citizenship, if they are citizens. It is meant to prevent students from other states, who come here merely as students, from participating in our elections.

The question being taken upon the amendment, upon a division, it was not agreed to, ayes 9, noes 11.

No further amendment being offered to this section,

Section five was then read as follows:

"Sec. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled tot he privilege of an elector."

No amendment being offered to this section,

Section six was read as follows:

"Sec. 6. All elections by the people shall be by ballot."

Mr. EMERSON moved to strike out the words "by ballot," and insert "*viva voce.*"

The question being taken, the amendment was not agreed to.

No further amendment was offered to this section.

Mr. HARRIS moved that the committee rise, report back the article as amended to the convention, and ask to be discharged from its further consideration.

The question being taken, the motion was agreed to.

In Convention.

The PRESIDENT having resumed the Chair,

The CHAIRMAN of the committee of the whole reported that the committee to which had been referred the article on the right of suffrage, had considered the same, made one amendment thereto, and instructed him to report the same back to the convention, and asked to be discharged from its further consideration.

The report of the committee of the whole was received, and the committee discharged accordingly.

Registering of Votes.

The amendment of the committee of the whole was to add to section one the following:

"And the General Assembly shall provide for registering the legal voters of the State;" causing the section to read—

"Section 1. Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote twenty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law; and the General Assembly shall provide for registering the legal voters of the State."

The question was upon concurring in the amendment.

Mr. HARRIS. I really hope this amendment will not be concurred in, for one reason, at least: it is the only amendment recommended by the committee of the whole to the article as it now stands; and surely, if the article in the present constitution is so little defective as that, there can be no necessity for this interpolation.

A registry law in some parts of the country may be expedient and desirable; that is, in large States, and in large places where the voters cannot be generally known. Under such circumstances, something of that kind might be necessary. But the great mass of the voters of this State being in county townships, where they are all known to each other, it would be but imposing a burden and a disability to require the registering of the voters of this State,

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without doing anything to prevent frauds at elections.

According to this amendment, a man must have his name registered so many days before the election, or he will not be entitled to a vote. This will be a hardship that our country population will not so much appreciate.

I think there is a duty incumbent upon us here in getting up an amended constitution; and that is, not to require everything that in our opinion would be best, when we know that it would not prove acceptable to the people. There are certain changes demanded by the people of this State, and we should so act here as to meet the demands of the people, and not do that which will load down the constitution, as I think this will do. Another thing; if a registry law is necessary, does it come within the province of our action here, or should it rather be left to the action of the legislature? If we go on and say that the legislature shall provide for registering the voters of this State, that is nothing more than they can do now, if they see fit. I think this is a matter for the legislature, and entirely out of place here.

Upon concurring in the amendment—

Mr. JOHNSTON called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was not concurred in; yeas 10, nays 20, as follows:

Yeas—Messrs. Clarke of Henry, Clarke of Johnson, Ells, Gower, Gray, Marvin, Scott, Seely, Todhunter and Young.

Nays—The President, Messrs. Ayres, Clark of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Palmer, Patterson, Peters, Price, Robinson, Solomon, Wilson and Winchester.

Residence of Voters.

Mr. CLARKE, of Johnson moved to amend section one by striking out the words "six months," and inserting "one year," as the term of residence in the State to entitle a person to vote.

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was not agreed to; yeas 5, nays 25, as follows:

Yeas—Messrs. Clarke of Johnson, Gower, Gray, Hollingsworth and Scott.

Nays—The President, Messrs. Ayres, Clark, of Alamakee, Clarke, of Henry, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Seely, Solomon, Todhunter, Wilson, Winchester and Young.

Mr. CLARKE, of Johnson, moved to amend the section by striking out "twenty days," and inserting "three months," as the term of residence in the county.

Before the question was put—

Mr. CLARKE, of Johnson, demanded a call of the Convention, which was ordered.

The Secretary then proceeded to call the roll, with the following result: present 32, absent 4, as follows:

Present—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Solomon, Todhunter, Traer, Wilson, Winchester and Young.

Absent—Messrs. Cotton, Parvin, Skiff and Warren.

The PRESIDENT stated that Mr. Cotton was absent on leave of the Convention.

Mr. TODHUNTER. I move that Mr. Parvin be excused. He was called home this morning, and requested me to have him excused.

The question being taken, the motion was agreed to, and Mr. Parvin excused accordingly.

The sergeant-at-arms was then dispatched after Messrs. Skiff and Warren.

After some time—

Mr. WARREN appeared and took his seat.

Mr. GIBSON. There is but one member absent, and not excused, [Mr. Skiff.] I have no doubt that the convention will agree, that when the gentleman arrives he shall be allowed the privilege of voting upon the question now pending, no matter what may be the result. I, therefore, move that further proceedings under the call be dispensed with.

The question being taken, the motion was agreed to.

The question recurred upon the motion of Mr. Clarke of Johnson, to strike out the words "twenty days," and insert the words "three months," as the term of residence in the county.

Mr. CLARKE, of Henry. In regard to this question, I will say that in the remarks I made this morning, as to the effect of extending the time of residence, I find, upon recurring to the section, that my objections were partially without foundation. I find that the effect of this amendment will not be, as I supposed it would, in regard to a person in a city moving from one ward to another. And the amendment in regard to the registry system having failed, I shall certainly vote for the next best thing that presents itself, for guarding against frauds at elections.

Upon this motion—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon striking out the words "twenty

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days," and inserting "three months," it was not agreed to; yeas 15, nays 17, as follows:

Yeas—The President, Messrs. Bunker, Clarke, of Henry, Clarke, of Johnson, Edwards, Gower, Gray, Hollingsworth, Marvin, Scott, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Day, Ells, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, Seely, Solomon and Todhunter.

Mr. CLARKE, of Henry, moved to amend the section by striking out the word "twenty," and inserting the word "sixty," so as to require a residence of sixty days in the county to entitle a person to vote.

Upon this motion—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was agreed to; yeas 18, nays 14, as follows:

Yeas—The President, Messrs. Bunker, Clarke, of Henry, Clarke of Johnson, Edwards, Ells, Gower Gray, Hollingsworth, Marvin, Scott, Seely, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson and Solomon.

On motion of Mr. HARRIS—

The article as amended was then referred to the committee on revision, engrossment, and enrollment.

Mr. CLARKE, of Johnson. Inasmuch as there is a convention now in session in the Supreme Court room, in which some members of this convention take considerable interest; and inasmuch, further, as the subject in relation to education and school lands has been referred to the standing committee, with instructions to report on Monday morning; and inasmuch, further, as there is another committee, of which I am chairman, which I would like to have meet this afternoon—the committee upon printing the journal—I move that the convention do now adjourn.

The question being taken, upon a division, the motion was agreed to; ayes 19, noes not counted.

The convention accordingly adjourned until Monday morning at nine o'clock.

MONDAY, MARCH 2d, 1857.

The convention met at 9 A. M., and was called to order by the PRESIDENT.

Prayer by the Chaplain.

The journal of Saturday was read and approved.

No petitions or memorials were presented.

Reports—Education and School Lands.

Mr. MARVIN, from the committee on education and school lands, to which had been recommitted the article on education and school lands, with certain instructions, made the following majority report:

The committee on education and school lands beg leave to make the following report:

Education and School Lands.

ARTICLE —

Section 1. The educational interests of the state, to include common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the state.

Sec. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and been one year a citizen of the state.

Sec. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

Sec. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the board may fix the time and place of their meeting. No regular session of the board shall be held during the time the general assembly may be in session.

Sec. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the board, the Governor may order a special session.

Sec. 6. The board of education may appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the state. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

Sec. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships and school districts, as may be provided for by the board, and when so passed, published and distributed, they shall have the force and effect of law.

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Sec. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other institutions of learning, that are instituted, to receive aid from the school or university fund of this state; *Provided*, that all acts rules and regulations of said board may be altered or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the board of education.

Sec. 9. The Governor of the State shall be, *ex officio*, a member of said Board.

Sec. 10. The Board shall not have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the General Assembly.

Sec. 11. The State University shall consist of a single institution, and the University fund shall be applied to that institution, and no other.

Sec. 12. The Board of Education shall provide for the education of all the youths of the State, through a system of schools. A school shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund.

Sec. 13. The Board of Education shall each receive the same per diem and mileage, during the time of their session, as members of the General Assembly; and for other services, such compensation as shall be provided for by the General Assembly.

Sec. 14. A majority of the Board shall constitute a quorum for the transaction of business: *Provided*, no rule, regulation, or law, for the regulation and government of the school or educational system shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Sec. 15. At any time after the year 1865, the General Assembly, two-thirds of each branch concurring, shall have power to supercede or re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

School Funds and School Lands.

ARTICLE —.

Sec. 1. The educational and school funds and lands, shall be under the control and management of the General Assembly of this State.

Sec. 2. The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Sec. 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Sec. 4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several county for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youth subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall, from time to time, provide.

Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Sec. 6. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes. under such regulations as may be provided by law.

Sec. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

Respectfully submitted,

A. H. Marvin, Chairman,
J. C. Hall,
Lewis Todhunter,
George W. Ells,
A. Harris, (as a compromise,)
John Edwards,
George Gillaspy.

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Mr. HALL from the same committee, presented the following as the report of the minority upon the subject of the school fund:

The undersigned, from the Committee on Education and School Lands, beg leave to make the following report:

The attention of the committee has been particularly called, by the action of the convention, to the subject of the School funds as now vested, and to a suggestion that the present mode of investing the moneys belonging to the School and University funds be abandoned, and some more permanent and secure mode substituted.

This question has been discussed by the committee, but a majority have not been able to agree upon another plan or mode of disposing of said funds.

It is conceded that the present manner of loaning the money is unsafe and insecure, and that some change is demanded; but the majority adhere to the character of the investments as now adopted, and look for a reform in the manner or system of loaning the funds. They seek safety by acting upon the agents of the funds who are authorized to make the loans.

In the opinion of the undersigned, the present system is radically defective, and cannot be followed without great hazard of loss of the principal—irregularity and confusion in collecting and disbursing the interest to the schools. The defect is radical, and in the system itself; and cannot be obviated by action upon the public agents.

Under the present system, the fund has, and will have, its thousands of borrowers, scattered throughout every county of the State. The public agents who control the funds can be numbered by hundreds. It would be a miracle, indeed, if all these borrowers and agents should prove punctual and honest—should be vigilant, competent and prompt. No one is so visionary as to believe that such a system can be carried on without some irregularities, failures and losses; yet the inconvenience of a change outweighs these considerations.

The undersigned is fully convinced that, under the present system, the school fund has already lost, beyond recovery, more than fifty thousand dollars; that losses will continue from year to year; that they are inevitable; and that the permanent fund will, in this manner, be subjected to a perpetual drain. Did these annual, or rather periodical losses, occur in a single case, it would startle the public mind; but they occur in comparatively small loans—are not manifest at once—their existence is known only to a particular locality—the law promises a tardy collection—the memory of the loss and the lawsuit pass into oblivion together—and the school fund suffers the loss without exciting public attention.

A spirit of selfishness in the public agents and borrowers will always make them active in retaining the present system. They have an interest, and will work. They have influence, and can pacify investigation. Its guardians being, to some extent, culpable for the losses, will become apologists and defenders of defaulters and peculation.

It must be remembered that this fund cannot be guarded and protected with shrewd and watchful anxiety of self-interest. A loss cannot excite the same exertion or mortification of a loss to an individual. The public never act with the energy and promptness of the private citizen, nor can they ever be made conscious of such a loss to half the extent that they would if it fell upon the individual citizen.

Under these circumstances, the undersigned most earnestly insist that the school funds of this State should be collected together and permanently invested in a secure manner; that the investment should be made so that the principal can never be lost or squandered, and the interest will be promptly and certainly paid when due. This can be done by investing the money in *selected* State or United States securities or bonds. This mode is objected to by some on the ground that these securities will only bring six per cent. interest, whilst the money can be loaned at ten per cent. interest to citizens of the State upon real estate security. This may be true; but experience proves that the expense of loaning, looking after the funds, collecting, distributing, and disbursing the ten per cent., reduces this seeming large per cent. to perhaps less than six per cent.; and a want of promptness in the collection and disbursement, creates continual disappointments, delays and troubles with the schools who depend upon the funds to pay the teachers.

Whilst the one system insures promptness, certainty, and security, the other promises nothing but insecurity, tardiness, delays, and disappointments, the undersigned most respectfully suggest that the limitation of State indebtedness prohibits the State from becoming indebted to this fund more than two hundred and fifty thousand dollars. But would it not be wise to modify that clause by allowing the State to borrow a sufficient amount of the school fund to erect the charitable institutions of this State? The necessity of such institutions is conceded. Common humanity requires the earnest and speedy action of the State in providing for the insane, the blind, the deaf and dumb, &c. These institutions belong to our social system, and will last as long as humanity and civilization exist. The expenditures should be commensurate with the cause and the object. These institutions will pass down to posterity, and continue to ameliorate and bless the poor unfortunate for thousands of years. It will be the pride and glory of this age to commence and lay the foundation of this great system of governmental charity and benevolence. To do this, we must resort to direct taxation. The assessor, the tax gatherer, and local and State treasurer, and disbursing agents, are all to be hired and paid. Not more than eighty cents of every dollar paid by the people will find a place in the walls of these in-

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stitutions. The money thus collected is worth ten per cent. to the people, where the tax is levied. We have the school fund seeking a safe investment. Why not discharge the tax gatherer, and the score of agents? Let the people keep their money, and pay the interest on the money borrowed from the school fund. This system will equalize the burden of erecting these institutions, by throwing a portion of the burthen upon those who come after us, and cheapen the system to all.

The undersigned, therefore, most respectfully, but earnestly, recommend to the Convention the adoption of the following sections, to be attached to the schedule, or the article, "School Funds and School Lands:"

Sec. —. For the purpose of establishing and erecting charitable institutions in this State, the General Assembly may provide by law for borrowing from the School and University funds such sum or sums that they may deem necessary for such purposes, for which they shall pay to the school fund interest at not less than six per cent. per annum.

Sec. —. That the School and University funds that exist in choses in action, or that have been loaned out by any officer of this State, shall, when the same becomes due, be collected and paid into the Treasury of the State, and the General Assembly shall provide for the permanent investment of said fund, or so much thereof as is not required by the State to establish charitable institutions, in United States, or selected interest-paying State securities, bearing not less than six per cent. interest; and that no more of the School or University funds shall be loaned to individuals.

J. C. Hall,
George W. Ells.

Mr. GRAY moved that one hundred copies of the above reports be printed for the use of the convention.

The question being taken, upon a division, the motion was agreed to, ayes 15, noes 9.

Districting the State for Judicial Purposes.

Mr. HARRIS. I have a resolution here, that I desire to present to the convention, as much for the purpose of ascertaining the feeling of the convention in regard to a certain matter, as for anything else. I should have no objection to its being referred to a special committee, or to any other disposition of it that gentlemen may see proper, so that I can but obtain an entire expression of the sense of the convention upon it.

The resolution is simply in relation to districting the state for judicial purposes. I do not understand that any determination has been come to yet, by this convention, in relation to this subject. So far as I can learn, the committee to whom this subject would most properly be submitted, would report against it. I merely desire an expression of the feeling of the convention. I therefore submit the following resolution:

"Resolved, That a special committee of seven be appointed to report a provision dividing the state into judicial districts as herein provided; and providing that a district judge and district attorney be elected in each judicial district at the general election in October, 1857.

"The first apportionment of the state into judicial districts to continue till the year shall be as follows:

"The first district shall be composed of the counties of Lee, Des Moines, Henry and Louisa.

"The second district shall be composed of the counties of Muscatine, Scott, Cedar, Clinton, Jackson and Jones.

"The third district shall be composed of the counties of Dubuque, Delaware, Buchanan, Blackhawk and Grundy.

"The fourth district shall be composed of the counties of Clayton, Alamakee, Fayette, Winneshiek, Bremer, Chickasaw, Howard, Butler, Floyd and Mitchell.

"The fifth district shall be composed of the counties of Van Buren, Jefferson, Davis, Wapello and Keokuk.

"The sixth district shall be composed of the counties of Appanoose, Monroe, Wayne, Lucas, Decatur, Clark, Ringgold and Union.

"The seventh district shall be composed of the counties of Taylor, Page, Fremont, Mills, Montgomery, Adams, Cass and Potawattamie.

"The eighth district shall be composed of the counties of Mahaska, Marion, Jasper, Warren, Polk, Madison, Dallas, Adair and Guthrie.

"The ninth district shall be composed of the counties of Washington, Johnson, Iowa, Poweshiek, Tama, Benton, and Linn.

"The tenth district shall be composed of the counties of Marshall, Story, Boone, Green, Calhoun, Humboldt, Webster, Hardin, Hamilton, Wright, Franklin, Cerro Gordo, Worth, Hancock, Winnebago and Kossuth.

"The eleventh district shall be composed of the counties of Harrison, Shelby, Audubon, Carroll, Crawford, Monona, Woodbury, Ida, Sac, Pocahontas, Buena Vista, Cherokee, Plymouth, Sioux, O'Brien, Clay, Palo Alto, Emmett, Dickinson, Osceola and Buncombe."

Mr. HARRIS. I think the better way to dispose of this matter would be to have a special committee of seven, in order to have its members pretty well distributed over the state, so as to get the sense of the whole convention in regard to it.

I would like to assign to the convention one or two reasons that prompted me to this course. In the first place, I understand that the change made by the convention, cutting the number of judicial districts in the state from their present number to eleven, was to get clear of a portion of the judges. Now I also understand that by a

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portion of the constitution, which we have already adopted, no judge can be put out of his office until the expiration of the term for which he was elected. Every judge in the state will continue in office for at least two years longer.

Now I do not see how we are to cut the districts down. The objection, to my mind is, that some of the districts in the state are too small, and there is not an equitable district in the west; they are too large, and will remain so for two years. And I understand that one county of considerable business is not included in any district at all; that is, the county of Mills.

I present this subject in this shape, in order to get some equitable provision in regard to the west made in this matter. I would prefer to have this referred to a select committee, and made a mere resolution instructing that committee to inquire into the expediency of so districting the state.

Mr. WILSON. I move to amend this resolution, so that it shall instruct the committee on the schedule to inquire into the expediency of the proposed arrangement of the districts. That committee has, I believe, gone through with everything that was before them, except this matter of apportionment. And they may as well attend to this matter as any other committee. I believe the different parties here are about as strongly and fairly represented upon the committee on the schedule, as they probably would be upon a select committee.

Mr. HARRIS. I would have no objection to having this resolution referred to the committee on the schedule in the light of instructions.

Mr HALL. I would ask the gentleman from Jefferson [Mr. Wilson] if the committee on the schedule have had this matter under consideration?

Mr. WILSON. I will state that the committee met together one time, but came to no definite conclusion upon this subject. A report has been drawn up, and is now being examined by the members of the committee. What their final action will be I cannot tell.

Mr. HALL. I should be unwilling to send this matter to a committee that has already decided against it. I have reason for believing that there are many counties in this state that will not have the benefit of a judiciary for the next two years, unless some provision is made here to secure it to them. I think it is our duty to relieve them from this difficulty. And to do so is of sufficient importance to justify our re-districting the state.

Mr. WILSON. I cannot see how any county in this state, though even now not embraced in any judicial district, can go for two years without being incorporated into some judicial district. I presume there would be no difference of opinion in this convention, in relation to calling a session of the legislature next winter, if necessary, for this purpose.

Mr. HALL. Suppose this constitution is rejected by the people?

Mr. WILSON. Then things would have to remain as they now are for two years.

Mr. HALL. Even if the constitution be adopted, the legislature would be left to re-district the State; and they could not do so under two years. In either case, things must remain as they are for two years, unless we remedy the difficulty more speedily by a constitutional provision.

Mr. WILSON. In the event the convention shall refer the districting of the State to the legislature, the General Assembly can meet next winter and provide for the counties now unprovided for, by attaching them to some district, until such time as the State can be re-districted. I would prefer to have this matter given to the committee on schedule.

Mr. HARRIS. As I remarked before, if this resolution can go to the committee on schedule as instructions, I have no objection to that course being pursued.

I would say one word more in regard to this matter of districting the State. If that is done by this convention, then, as a matter of course, the election would take place next October; and under the provisions of this constitution, the judges then elected would go into office next January. The legislature that meets then can proceed to re-district the State, and you thereby gain one year by the course I advocate, besides the advantage of an equitable division of the western part of the State.

As the gentleman from Des Moines [Mr. Hall] has said, matters must remain as they now are for two years, unless we proceed to district the State at this time. If the legislature districts the State next winter, the election for judges will not take place until a year from next October, and the judges then elected would go into office a year from next January.

Mr. WILSON. I would ask the gentleman from Appanoose [Mr. Harris], if the resolution he has offered is a resolution of instructions?

Mr. HARRIS. It is.

Mr. WILSON. Instructing the committee to report this plan of districting the State?

Mr. HARRIS. That is the way the resolution reads now. But I am willing to modify it, so as to instruct the committee to district the State, leaving the details to them.

Mr. SKIFF. I would be willing to support a resolution to instruct a committee to make a report in favor of districting the State. As I understand it, this resolution is one instructing the committee to district the State for district attorneys, &c.

Mr. HARRIS. The district attorneys are provided for in another portion of the constitution.

Mr. SKIFF. I would be in favor of instructing the committee to report in favor of districting the State for judicial purposes, and leave the other matters out.

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Mr. HARRIS. With the permission of the convention, I will withdraw the resolution I have offered, for the purpose of submitting another in a different form.

No objection being made, the resolution was withdrawn.

Mr. HARRIS then offered the following resolution:

"*Resolved*, That the committee on the schedule be instructed to report a plan to divide the State into judicial districts."

Mr. WILSON moved to strike out the word "report," and insert the words, "inquire into the expediency of reporting," so that the resolution would then read—

"*Resolved*, That the committee on the schedule be instructed to inquire into the expediency of reporting a plan to divide the State into judicial districts."

Mr. SOLOMON. I feel a great deal of interest in this question, especially as it is supposed to be the most speedy means of getting my county into a judicial district. The statement has been made here this morning that my county—the county of Mills, is not in any judicial district at present. The facts of the case are these. A law was passed during the last session of the legislature, changing the seventh judicial district, to which Mills county belonged. By that law the district was re-composed of four or five other counties, Mills county being left out. And, as the Secretary of State informs me, no action was taken by the legislature to place Mills county in any of the judicial districts. So, as a matter of course, she is not now embraced in any judicial district. Mills county is quite a populous county, and there is a great deal of litigation in it, affecting large and important interests.

And, in addition to that fact, I desire to state that I regret the disposition that seems to be manifested here to refer this matter to the committee on the schedule, from the fact that I am directly informed, and I believe that that committee have, to some extent, canvassed the propriety of this very me sure, but have not embodied it in their report, which is now made out, ready to be presented to this Convention. That, I think is equivalent to a rejection of this whole matter. I would prefer, myself, to have this subject referred to a select committee, to be composed of a larger number than the committee on the schedule, the members to be taken from all parts of the State.

Mr. WILSON. The report of the committee on the schedule is not yet completed. We have only proceeded as far as we could under the action of the Convention, up to this time, and the report is left open for the further action of the committee. We had no intention to submit it to the Convention until we had obtained further action of the Convention in regard to other matters.

Mr. SOLOMON. I would ask the gentleman if the committee has had this matter under consideration?

Mr. WILSON. I will answer the gentleman as I did the gentleman from Des Moines, [Mr. Hall,] that the committee have had no formal meeting, for the purpose of canvassing this question, at all. We have considered our report as far as it can be considered at present, and it is now being submitted to the members of the committee for their examination and suggestion.

Mr. SOLOMON. I would rather have that committee instructed directly in favor of dividing the State into judicial districts, if it comes to that. This proposition, of re-districting this State, and electing a district attorney in place of our county prosecuting attorneys, changes one grand feature of our judiciary system. I think it is a good change, and that the sooner that it can be inaugurated, so that the people can enjoy the benefit of it, the better. And if we district the State now, the people will so much the sooner have the benefit of this change.

Mr. WILSON. I wish to make one further suggestion to the gentleman from Mills, [Mr. Solomon.] I cannot now state what the action of the committee on the schedule will be upon this subject. But in the event that the committee should determine against the propriety of now districting the State, it can provide in the schedule for attaching Mills county or any other county, to some judicial district, and the moment the constitution is adopted it would be in a judicial district, which would be sooner than if we should re-district the State.

Mr. BUNKER. I shall vote for the amendment, and then I think I shall vote against the resolution if not amended. I would vote for instructing the committee to inquire into the expediency of districting the State, and then when they make their report, if the Convention is not satisfied with it, they can amend it. But I would not like to absolutely instruct the committee to provide for districting the State.

The question was upon the amendment of Mr. Wilson, to make the resolution one of inquiry.

Upon this question—

Mr. HALL called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was adopted; yeas 17, nays 14, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clarke of Johnson, Day, Ells, Gray, Hollingsworth, Marvin, Scott, Seely, Todhunter, Traer, Warren, Wilson and Young.

Nays—Clark of Alamakee, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Skiff and Solomon.

The resolution, as amended, was then adopted.

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Locating the State Capitol and University.

Mr. SKIFF submitted the following resolution:

"*Resolved*, That the committee on the schedule be instructed to inquire and report upon the expediency of permanently locating the state capitol and the state university."

Mr. PALMER. I move to amend the resolution by striking out all after the word "resolved," and inserting the following:

"That the following be inserted as a separate article in the constitution:

ARTICLE ——

Seat of Government and State University.

Section 1. The seat of government is hereby permanently located, as now fixed by law, at the city of Des Moines, in the county of Polk; and the state university at Iowa City, in the county of Johnson."

Mr. SKIFF. I would be willing to accept an amendment to my resolution so as to require the committee on the schedule to inquire into the expediency of reporting such an article.

The PRESIDENT. The chair is of opinion that the amendment of the gentleman from Davis, [Mr. Palmer,] is not strictly in order to a resolution of inquiry.

Mr. EDWARDS. I think we better settle this question now directly. If we get a report upon this subject from the committee on the schedule, we will be no better prepared to act upon the question then than we are now. The same amount of discussion would take place upon their report that there will upon this article as now introduced. If the gentleman from Jasper, [Mr. Skiff,] will so modify his resolution as to require the committee on the schedule to report a provision for permanently locating the seat of government at Des Moines, and the state university at Iowa City, I will go for it. But a resolution merely instructing the committee to inquire into the expediency of reporting such a provision, will but delay the matter without producing any practical results.

Mr. HALL. I understand that the gentleman from Davis [Mr. Palmer,] has introduced his proposition here as a separate article in the constitution, and it is now upon its first reading. It relates to a subject upon which we have no committee. It is now before the convention as a separate and distinct proposition, to be adopted or rejected. The only way we can act upon it is in that form, or to refer it to some committee for consideration.

The PRESIDENT. If the proposition of the gentleman is to be considered as a separate article of the constitution, it will be considered as now having had its first reading, and unless unanimous cannot be given for its further consideration, it must lie over one day under the rules.

Mr. SKIFF. I will withdraw my resolution, in order to allow the gentleman from Davis [Mr. Palmer,] to present his proposition directly to the convention.

Mr. GILLASPY. This subject has agitated the minds of the people of this State for some time past; and I for one am very desirous to have this convention take some decisive action in regard to it. I would enquire if the convention, by a suspension of its rules, cannot decide this question at once.

The PRESIDENT. They can; but it requires unanimous consent to suspend the rules.

Mr. GILLASPY. I think that any member of this convention is just as well prepared to vote upon this question at this time, as they would be after it was referred to a committee, and reported upon, or laid over one day or more. The minds of the people of the whole State are turned to the two subjects embraced in this proposition. I would concede a great deal myself, in order to have the matter definitely settled, though I believe my constituents are in favor of the proposition introduced by the gentleman from Davis, [Mr. Palmer.] I think this question, of all others, should be determined definitely by this convention, for the benefit of the State at large. We have a number of the professors of the State University in this city, who are obliged to put up in the out-houses here. I think it is important this question should be settled. I hope, therefore, the convention will now consent to suspend its rules, and decide for or against the proposition at this time.

Mr. YOUNG. I hope this subject will not be pressed to an immediate consideration at this time. For my part, I am not now prepared to act upon it.

The PRESIDENT. As it requires unanimous consent to suspend the rules, this article will accordingly be laid over until to-morrow.

Enrolling the Journal.

Mr. CLARKE, of Johnson. I offer the following resolution:

"*Resolved*, That for preparing an enrolled copy of the journal of this convention, and of the constitution, ordered to be deposited in the State Department, the Secretary of this Convention be paid the sum of dollars."

I offered a resolution some days since, which was adopted by the convention, requiring the Secretary to prepare an enrolled copy of the journal, and the constitution, to be deposited in the office of the Secretary of State. I had intended to have submitted immediately afterwards a resolution of the character of the one I now offer. But the subject of fixing the compensation of our officers came up, and I did not get the opportunity to offer this resolution.

I find that it is necessary to determine this matter, so as to enable the committee on expenditures to act upon it. I, therefore, offer

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this resolution, and trust it will be adopted. The convention will understand that the original journal, as a matter of course, will be placed in the hands of the printer. Another copy must be made for the purpose designed in the resolution.

As to filling the blank, I can only guess at the proper amount necessary to pay the Secretary. The conclusion in my mind is, that two hundred dollars will not be too much, or too little. I, therefore, move to fill the blank with that sum.

The question being taken upon the motion to fill the blank with the words "two hundred," it was agreed to.

The question recurred upon the resolution as amended; and being taken, there were, upon a division, ayes 9, noes 2; no quorum voting.

The PRESIDENT stated the question again.

Mr. CLARKE, of Johnson. I hope the convention will understand this matter. The facts of the case are, that some days since the convention passed a resolution requiring the Secretary to prepare an enrolled copy of the journal of this convention, and of the constitution, to be deposited in the office of the Secretary of State. That will require the Secretary to copy the whole of the journal, as the original must go to the printer. I think it is the duty of the convention to pay the Secretary for doing this. If I had thought that the question of fixing the salaries of our officers would have come up immediately after the former resolution was adopted I would then have fixed the compensation for this service. I desire to have this matter determined now, so that the committee on expenditures may be able to act upon it.

The question being then taken upon the resolution as amended, it was adopted.

Mr. TRAER. I would like to ask, for the sake of information, what the object of this resolution is. I understand that it is to pay the clerk for enrolling the constitution.

The PRESIDENT. And the journal.

Mr. TRAER. Is it necessary to have the journal enrolled?

Mr. CLARKE, of Johnson. It is, in order to be deposited in the office of Secretary of State.

Mr. TRAER. I cannot see the necessity of it, after this convention has ordered the number to be printed that it has.

Mr. TODHUNTER. I would call the gentleman to order. There is no subject before the convention.

Mr. TRAER. I merely desire to make an explanation. I think this is only voting money out of the treasury for that which is not necessary.

Order of Business.

The PRESIDENT. The unfinished business before the convention is the resolution reported from the select committee on the right of suffrage, proposing to submit to the people of this State, the question of striking the word "white" from the constitution.

Mr. CLARKE, of Henry. I move that the convention resolve itself into committee of the whole upon that resolution.

Mr. HALL. I call the yeas and nays upon that motion.

Mr. SKIFF. I would ask if there is any other subject which the convention can proceed to consider, in case we refuse to go into committee of the whole upon this resolution?

The PRESIDENT. The chair cannot say. This is the only unfinished business before the convention at this time.

Mr. SKIFF. If there is nothing else for us to do, I will vote for going into committee of the whole.

Mr. CLARK, of Alamakee. I move to amend the motion to go into committee of the whole, so that it will be to go into committee of the whole to-night at 7 o'clock.

Mr. HALL. There is no necessity for this convention to take up this matter now. There were very few alterations made in the report of the committee on education and school lands, by the committee to which it was recommitted, and there was no necessity for its going to the printer. The article on the school fund was not altered three lines from the way in which it was originally printed. I can see no use in sending it to the printer, unless to spin out the time of this convention. All the changes made in that report can be explained in three minutes. I hope that some gentleman, who voted to send that report to the printer, will move a reconsideration, so that we may have it back again, and proceed to consider it.

Mr. CLARK, of Alamakee. I move to reconsider the vote ordering that report to be printed.

The PRESIDENT. That motion is not now in order, there being another motion before the convention, to go into committee of the whole upon the resolution reported from the select committee on the right of suffrage.

Mr. GILLASPY. The question involved in this resolution has been discussed more than any other question that has been before this convention; and to my mind, and I have no doubt to the minds of a large portion of the people of this State, there has been enough already said upon the subject. I think that every member is now prepared to vote directly upon the resolution. We have had political speeches made here, partizan speeches upon both sides; a sufficient number of them, I should think, to satisfy every member upon this floor.

I hope we will go to work this morning, so that we may be able to adjourn on Wednesday next. I know that the interests of the people of this State demand it at our hands. I am very anxious to get through here and go home. And so I presume is every member upon this floor,

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who lives at any great distance from here, and who has not been able to go home every day or two.

We have had this question in committee of the whole some four or five different times. We spent first an afternoon, and then an evening in considering this resolution. We then spent the forenoon of the next day, and an afternoon of one day since upon it. And we have finally adopted the report of the standing committee on the right of suffrage. I hope the convention will this morning do one of two things; either reject or adopt this resolution, and then go on with the other business of this convention.

I do not want to hear any more political speeches here. I do not want to make any myself. I have not said a word upon this resolution. I am willing to let it go to the people without anything further being said upon it here. If we go into committee of the whole, and one more political speech is made there, the opposition will want to make another in reply. And so it will go on from day to day, and there will be no telling when we shall be able to adjourn. I hope the convention are satisfied with what has already been said upon this subject, and that we will go on and take a vote upon this resolution this morning.

The question was upon the motion to go into committee of the whole upon the resolution of the special committee, at seven o'clock to-night.

Mr. SKIFF. I would ask the mover of that motion to withdraw it, so that we may have the question taken upon reconsidering the vote ordering the report of the committee on education and school lands printed.

Mr. CLARK, of Alamakee. I will withdraw the motion to go into committee of the whole at 7 o'clock.

Mr. SKIFF. I would like to have the question taken upon the motion to re-consider the ordering the school report to be printed. If that is not carried, I will then vote to go into committee of the whole upon this resolution.

The PRESIDENT. The question now recurs upon the motion of the gentleman from Henry [Mr. Clarke] to go into committee of the whole at this time.

Mr. WILSON. I wish to say a few words in reply to the gentleman from Wapello [Mr. Gillaspy], who seems to have got into a great hurry again. This convention has held one night session, for which that gentleman voted. An effort was made here again to have another night session, and that gentleman voted against it. A second attempt was made to get a night session, and that gentleman voted against it again. I voted the first time against having a night session, because I wanted to devote that time to committees. But I voted for it the other times, but the gentleman was not willing to have them then. But now he is getting into a hurry again.

Now I know of nothing before this convention for us to do, unless we go into committee of the whole upon this resolution, which I hope the convention will do. I do not want to be called upon to act upon the report of the committee on education and school lands, without having that report before me. I consider that one of the most important articles of the constitution before this convention, and I want to know just exactly what I am to vote upon before I give a vote upon that subject. I hope the convention will go into committee of the whole, and decide this resolution to-day.

Mr. GILLASPY. I did vote for the first night session. The gentleman from Jefferson [Mr. Wilson] wishes to create the impression that I wanted to dodge my former position, when the question for a night session came up the second time. But upon that occasion, I stated emphatically that I gave my vote against the night session, upon the ground that the gentleman from Warren [Mr. Todhunter], the gentleman from Appanoose [Mr. Harris], and the gentleman from Washington [Mr. Bunker], were too unwell to attend. It was upon that ground, and upon no other, that I gave that vote. I stated so then and I state it now; and the gentlemen to whom I have referred will bear me witness to that effect.

Mr. HALL. This subject of schools and school lands has been before this convention for a long time. It was most thoroughly discussed in committee of the whole, and also in convention; and it was then re-committed to the committee on education and school lands, two members having been added to that committee. That committee have unanimously reported the subject back to the convention, after making such amendments as they considered necessary, and which were suggested by members of the convention, two or three modifications only. They have divided the subject into two articles—one upon education and schools, and the other upon the school fund and school lands. The one upon education and schools is the only one in which any changes whatever are made. The other article remains, with some slight alterations made in convention, as it was printed before. There is no earthly necessity at all for having those reports printed again. There are but two or three lines of change in the article on the school fund and school lands; mere clerical amendments, which any member can make in five minutes in the report as already printed. The other one is as it passed through the committee of the whole, and as it was amended in the convention, with two or three exceptions. One amendment proposed is to make the Lieutenant Governor the president of the board of education another is, to give executive powers to the secretary of the board; another is, to take the veto power from the Governor; another is, to give to the legislature the power to modify or abolish this board of education, after the year 1865. These are the only important amendments recommended by the committee.

This report was made unanimously by the committee, and there was no necessity for de-

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laying its consideration until to-morrow morning, in order to have it printed. If gentlemen cannot understand it as it is now, after the discussion we have had upon it, they will not understand it after it is printed.

It appears to me that this is only an effort to stave off this question, endeavoring to postpone it, to worry out this convention with this subject. I hope the convention will reconsider the vote, ordering that report to be printed, have it back here again, and take it up and dispose of it, so that it can go to the committee of revision and be prepared for its third reading. We have little time enough, if we adjourn on Wednesday next, to close up our labors by that time. I call upon all members who voted for the resolution to adjourn on Wednesday next, to sustain me in this matter.

Mr. GIBSON. I hope the convention will not go into committee of the whole upon this resolution at present. It seems to me that such a course is uncalled for. If there be any absolute necessity for going into committee of the whole it would be better to do so at seven o'clock this evening. I cannot see any real necessity for going into committee of the whole upon this question at all. As has been already remarked, there has been a discussion on this question ever since the commencement of this session. I suppese every member here is as fully prepared now to vote upon this question, as he can be after another week's discussion.

I find a disposition on the part of some gentlemen to claim that we are getting in too great a hurry, especially after we have spent an evening in committee of the whole upon this subject. It is very well understood what gentlemen mean by this charge. I say that, in a party point of view, the democratic party of this convention have not spent the time usually allotted to the business of this convention in discussing this question. It is true the members of the democratic party did occupy one evening of the convention, referred to by the gentleman from Jefferson, [Mr. Wilson.] But it is well known that the opposition spent the whole of the next day, both the morning and afternoon sessions, in discussion upon this question. They spent more than double the time in arguing this question, that the democratic party did.

When gentlemen on the other side wish to make political use of this matter, let them specify what has been done, and let the people know that they have spent a whole day in the discussion of this question, while we have only spent an evening, at a time when we were not occupying the regular hours of the sessions of the convention. I believe, from what I have seen here, that the Democratic party are willing to let this matter rest here, and come to a direct vote upon it; and if we are voted down, they will cheerfully submit. They have no anxiety for manufacturing capital out of this question. I think the gentlemen of the majority are pressing this question a little too fast. It is true they have the power to prolong and protract this discussion for days together. But I ask gentlemen if it will change the vote of a solitary member upon this floor? Are not gentlemen just as ready and as well prepared now to vote upon this question as they will be after a protracted discussion? I think they are. I do not now intend to say a word upon the merits of the question. Gentlemen understand the question perfectly. If gentlemen of the majority are willing to vote for the proposition now before them, let them place their names upon the record to that effect, and let them go before their constituency and defend themselves in that respect, if they can. These are my views upon this subject. I hope that the convention will not resolve itself into committee of the whole upon this subject at all.

Mr. CLARKE, of Henry. I would suggest to those gentlemen who have so much to say about saving the time of the convention, that when we have finally adjourned, if they will look to the reports of our proceedings, they will find that more time of the convention has really been wasted by these discussions, in what they claim to have been efforts to save time, than by discussions upon the great principles that have come up here for our action; and that these very men who are eternally talking about saving time, are the ones who have consumed the most.

Mr. GILLASPY. I hope the gentleman does not allude to myself.

Mr. CLARKE, of Henry. The gentleman reminds me in this matter of the man who, passing along where there was a free fight going on, stopped and very innocently inquired whether "that ar was a free fight." They told him it was. Then said he "I'm in." He threw off his coat and joined in, but receiving more blows than he gave, he again made the inquiry—"is this ar a free fight?" And when they told him it was, then said he "I'm out." (Laughter.) And so it is with these gentleman who are continually talking about wasting the time of the convention. They join in when it is a free fight, and consume a whole evening, but receiving more blows than they gave, they now want to get out. (Laughter.)

I am rather surprised at the position of the gentleman from Des Moines, [Mr. Hall,] in regard to his report on the school system. He seems to be afraid to have it printed and presented to this body for close examination and scrutiny. It is certainly not the same report that we had printed before, and laid before us for examination. The gentleman cannot forget, certainly, that he implored us, from time to time, when we came, in the order of business, to the consideration of this report, not to take it up then; that he was not in a situation to enter upon its discussion; and it was accordingly postponed, from time to time, at his request. It has been a subject upon which the minds of the convention have been less united, and less prepared to act, than any other subject which has come before us. Gentlemen have gone on and

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amended that report, until the gentleman from Des Moines himself does not recognize it. I hardly know what it is now myself; and I presume other gentlemen are similarly situated The amendments made to it have come in separately, and we have not seen them together. We have not had an opportunity of comparing them together, to see how the system, as now perfected, is going to operate.

If this committee, after taking up this report, which has been considered here in convention, have sent it back to us with such essential modifications as they have reported, I ask may not some other gentlemen, when they come to consider it, suggest some essential modifications that would improve it? I desire to have the report before me, to see what there is in it. I like the gentleman's plan for some reasons, but there are other things in it that I do not like. I wish to have the report printed, so that I may have it before me for examination; and perhaps I may then find that all the objections which I have to it will be removed. It was for this reason that I voted for the printing of this report.

I am opposed to holding evening sessions. We are all worked hard enough during our regular sessions, without having to come up here evenings to spend three or four hours more. We are all more or less suffering from general debility, in consequence of our close confinement here, during the day time, without being compelled to hold evening sessions.

Mr. GIBSON. So far as this free fight is concerned, if we are in it, we are prepared to stay in it. We do not ask to get out of it; and if we are whipped here, we mean to appeal to a higher tribunal. Gentlemen on the other side need not get up here and say that we want to back out of it. If we are in it, we are ready to meet the issue, and if we are beaten, I repeat again, that we will appeal to a higher tribunal.

Mr. SCOTT. I wish to ask the gentleman one question. Does he really mean to appeal to a higher tribunal? (Laughter.)

Mr. GIBSON. Yes, sir, we do mean to appeal to a higher tribunal.

Mr. MARVIN. I wish to inquire whether this resolution of the select committee on the right of suffrage, is now in the hands of the convention? The committee of the whole reported it back to the convention, and asked leave to sit again. If we have had leave to sit again upon this matter, is it not really in the hands of the committee?

The PRESIDENT. The chair is of the opinion that the committee of the whole reported it back to the convention, and that they were discharged from its further consideration.

Mr. MARVIN. My impression was that they were not discharged; but that they asked leave to sit again.

The PRESIDENT. The opinion of the chair is, that the committee of the whole were discharged from the further consideration of the subject.

Mr. HARRIS. I would like to inquire of the chair in what position the question is now placed before the convention?

The PRESIDENT. These resolutions are now before the convention upon their second reading, and open to amendment. A motion to commit them either to the committee of the whole, or to any other committee, would be in order.

Mr. WILSON. Is there a motion now pending to go into committee of the whole, upon this question?

The PRESIDENT. There is.

Mr. HARRIS. So far as consuming the time of this convention upon this subject is concerned, that charge cannot be laid to me. If gentlemen think it necessary, in order to place themselves in a proper position before their constituents, that they should be heard upon this question, I have no objections to saying they may have the opportunity to spread their speeches upon the journal. I desire to come to a direct vote upon this question. I am opposed to going into committee of the whole; but if we must go into committee of the whole, I would prefer to do so this evening. Our several committees can do nothing while the convention is in session. If we can talk about nothing else than this question, let us adjourn and give the committees an opportunity to consult together. I am in favor of reconsidering the vote ordering the printing the report of the committee upon schools. In saying this I do not commit myself to any particular system; but I think that we shall save one day's time by reconsidering.

The PRESIDENT. The question is, shall the convention resolve itself now into committee of the whole for the purpose of considering the report of the select committee on the right of suffrage?

Mr. SOLOMON. I move to amend by saying seven o'clock this evening.

Mr. BUNKER. I for one, am not now prepared to take up the report of the committee on schools. When that report was first made to the convention it appeared to be quite elaborately drawn, and there were principles involved in it, which I could by no means support. The gentleman from Des Moines, [Mr. Hall] has labored hard in this matter, and I disliked very much to place myself in opposition to his report. But there were principles in it which I could not support. It has now come back from the committee, with many alterations, which are material. I wish to know what I am voting upon, and am not, therefore, prepared to act upon this report, until it is printed and I have had an opportunity of examining it.

Mr. HALL. One branch of the report has been before the gentleman since the first week of the session, and has passed through the committee of the whole and the convention, without modification or change.

The report, as the gentleman must be aware, is divided into two articles. I speak in relation

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to school funds and lands. Can gentleman say they want that printed? Surely not. It would only be a reprint of what has already been printed. There are not five words altered in it. There are only three modifications made in the other article, one of which was presented by the gentleman from Henry [Mr. Clarke]. Another has been repeatedly discussed in the convention, and another was only the taking off what the convention had added to the original report—and that is the veto power. There is but one serious change made in the report, from the time it came from the committee of the whole; and that is the proposition of the gentleman from Henry [Mr Clarke].

I am willing to devote any reasonable time to this question; but believing that the opposition which is manifested here to it, is assumed more out of general hostility to the measure itself than from anything else, I must persist in having at least that portion of the school report, which remains as it was originally printed, taken up and acted upon. There is no real necessity that we should not do it. The report, with the amendments which I have mentioned, is presented substantially as it came from the hands of the committee. If the committee had not, after the most mature deliberation, come to the conclusion to recommend this matter to the convention, I would not say one word. But after the time we have already expended upon this matter, I do not deem it proper to delay it any longer. If gentlemen were so disposed, I believe we could come to a vote, and dispose of this question very soon.

Mr. CLARK, of Alamakee. I cannot see the necessity of printing so much of the report of the committee on the school question, as has been once printed. I am satisfied that there is no material alteration in that part of the report to which the gentleman from Des Moines [Mr. Hall] alludes, and I cannot see the necessity for incurring the expense of printing it, and subjecting ourselves to the delay thereby occasioned.

The PRESIDENT. The question is now upon the motion of the gentleman from Johnson [Mr. Clarke], that we go into committee of the whole on the right of suffrage.

Upon this question,

Mr. HALL called for the yeas and nays, and they were accordingly ordered.

The question was then taken, by yeas and nays, and the motion was not agreed to; yeas 15, nays 17, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Edwards, Ells. Gower, Gray, Hollingsworth, Marvin, Scott, Seely, Skiff, Wilson and Young.

Nays—Messrs. Ayres, Clark of Alamakee, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Solomon, Todhunter, Traer and Warren.

The PRESIDENT. What disposition will the convention make of the resolution?

Mr. TRAER. I move that the resolution be made the special order for this evening, in committee of the whole, at 7 o'clock.

Mr. CLARKE, of Johnson. When this subject first came up, the minority upon this floor were very anxious to have it discussed in committee of the whole in evening sessions. But since they have once had the privilege of discussing it in evening sessions, two motions have been made to go into committee of the whole in the evening, with the view of taking up this subject, and they have been voted down. I am opposed to taking it up this evening, for the reason that there is to be a lecture which I desire to attend, and which I apprehend other gentlemen here would like to attend.

So far as this question is concerned, I am ready to vote upon it now. I have no wish to discuss it any further myself. As the convention have refused to go into committee of the whole upon this subject, and if there be any likelihood of forwarding our business by it, I would just as soon vote upon this question now as at any other time.

Mr. HALL. I think the gentleman from Johnson [Mr Clarke] is very much mistaken. After that resolution came in, the minority never opened their lips until its friends had discussed it for a whole day. They then voted for an evening session, in order that this subject might be disposed of there, and that it might not interfere with the regular session. We have not occupied one hour of the regular sessions of the convention in the discussion of this question, and we are not responsible for the time that has been wasted upon this resolution. The speeches made upon our side were provoked by a most violent speech from the gentleman from Lucas, [Mr. Edwards.] Gentlemen upon the other side now charge this waste of time upon the minority, and this, too, after we have been dragooned into saying something; after we have had speeches here evidently intended to provoke us; and after we have persisted in our silence for five or six hours. I am willing that the convention shall go into committee of the whole in the evening; but I am unwilling to devote the regular session of the day to this matter.

Mr. SKIFF. I call the previous question.

Mr. EDWARDS. I hope the convention will not sustain any gag law, when a member has been attacked.

The PRESIDENT. Does the gentleman desire to make a personal explanation?

Mr. EDWARDS. I do.

The PRESIDENT. The Chair thinks that the gentleman would then be in order.

Mr. EDWARDS. I reiterate what I said upon a former occasion, that I was induced to make the speech I did, from what had been said here during one half day, by gentlemen upon the opposite side in politics with myself. It will be recollected that a report was made here by a select committee, upon a matter which had been

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referred to the standing committee, of which I had the honor to be chairman. The select committee reported a resolution, which I did not consider germain to the report of the standing committee. I thought it ought not to go with it, and that if it were adopted, it should go to the committee on schedule. I was opposed, as an individual, to the principles of that resolution, and if I am called upon to vote upon it, I shall vote against it. I had no objections, however, to giving the people of the State the privilege of passing upon it, as upon all other questions.

It will be recollected that the gentleman from Des Moines [Mr. Hall,] made a very elaborate report from the minority of the committee upon this question, which they desired to have printed. It would then be endorsed by the convention, and go before the country, a garbled, *ex parte* statement, without being answered. When I witnessed the manœuvring of the gentleman for half a day, for the purpose, as I conceived, of putting the republican party in a false position before the people, I felt justified then in making the speech I did. That speech, whether right or wrong, has now gone upon the records of the convention, and the people will determine whether I was justified or not in making the remarks I did under the circumstances. I repeat that I felt justified in making the speech I did, after seeing the conduct of the gentleman, in spending half a day in manœuvring, for the purpose of getting the convention to print and endorse his report, which was so elaborately drawn up, and which has since been printed in the "Daily Reporter" of this city. It has been sent forth, under a complete misapprehension of the facts, as I think; and the impression is evidently intended to be created, that there has been an attempt on this side of the convention to gag the minority. I say that there has been no such thing The printing of that report was altogether unnecessary; and would have been unfair and unjust, if it had been allowed.

Mr. PRICE. As one of the minority of the committee that made the report upon this subject I cannot suffer the remarks of the gentleman from Lucas [Mr. Edwards,] to pass uncontradicted. I hardly know what is meant by the expression, that the minority have made a garbled report, and that they were desirous to get the endorsement of the convention for this report, by obtaining their permission to print it. The mere printing of the report by the convention would be no endorsement of it. It was but an ordinary courtesy of the convention to permit the minority, as well as the majority, report to take the usual course, and be printed. If the convention had sanctioned the proposition to print the minority report, it would have been no endorsement of it by the convention.

The gentleman from Lucas, [Mr. Edwards,] when he made his speech, and descended into the political sewer, and became a political scavenger upon this subject, stultified himself, and departed from the recommendation of his majority report. As a member of the majority of the committee he stultified himself in recommending that the word "white" should not be stricken out; and yet he abuses the minority of this committee, and objects to their report for making the same recommendation.

I have not mingled in this debate heretofore, although I am in the habit of talking in a campaign, when such subjects come up. But after what has fallen from the lips of the gentleman from Lucas, [Mr. Edwards,] I shall consider myself bound to reply to his remarks, if this subject shall again be opened for discussion. I shall vote against the proposition of the gentleman from Johnson, [Mr. Clarke,] and against the proposition of any gentleman in the Convention, to re-open and re-argue this matter here. I desire to bring this question to a direct vote. It has been made a political matter upon both sides; and, although republicans have taken more part in the discussion than the democrats, and have occupied more time, I shall vote against holding an evening session, or occupying any further time, for the purpose of re-opening and re-discussing this question. However much I may desire to reply to what has fallen from the gentleman from Lucas, [Mr. Edwards,] I forego this privilege, for I desire that the time of this Convention shall not be further consumed. For that reason I hope the yeas and nays will be taken upon this question, so that it shall be shown upon the record who the gentlemen are that desire to prolong the discussion of this question, and keep it before the Convention for the purpose of making political speeches.

Mr. CLARK, of Alamakee. I voted against going into committee of the whole, because I desired to proceed with the business of the Convention. I have become convinced that any effort on the part of the Convention to stave off this matter is useless. Discussion must inevitably come. and it may as well come now as at any other time. I therefore move to reconsider the vote by which it was determined that this matter should not go to the committee of the whole.

Mr. GOWER. I do not intend to make a speech upon this question: but I wish simply to put myself right upon the record. It is very well known to the Convention that I have felt anxious in regard to the disposal of the school fund, and I desire to act in this matter free from all political considerations. Prior to the action of the committee on education and school lands, I had conversed with the gentleman from Des Moines, [Mr. Hall,] in regard to the disposition of the school fund of the State. He approved of the plan which I suggested, and I understood him to say that he would assist me in carrying it out. I offered a resolution here embodying my views in regard to this matter, expecting that the gentleman from Des Moines, [Mr. Hall,] would come to my aid. After it was introduced I received the impression that the gentleman from Des Moines was going to oppose it, and in conversation with some of my political friends,

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they confirmed me in the opinion that he was intending to oppose it. I then got up and withdrew it. How am I met? I find that the very persons who proposed to favor my proposition, now oppose it strenuously; and I find that the gentleman from Des Moines is ready to espouse it. Now, gentlemen, I am ready to support this report; and, in so doing, I hold myself free from all political considerations. I support what I believe will tend to promote the best interests of education, and I think that in a matter of this kind we ought to rise superior to all political considerations.

The PRESIDENT. The question now before the convention is upon the motion made by the gentleman from Alamakee, [Mr. Clark] to reconsider the vote just taken by which the committee refused to go into committee of the whole upon this resolution.

Mr. HALL, Will this motion supercede the other question before the convention?

The PRESIDENT. The Chair is of opinion it will. The rule upon this subject is as follows:

"When a motion has been made and decided in the affirmative or negative, it shall be in order for any member, voting with the majority, to move for a reconsideration thereof, on the same or the succeeding day, of the sitting of the convention, *and such motion shall take precedence of all other motions, except the motion to adjourn.*"

Mr. SOLOMON. I hope the motion to reconsider will not prevail. We have refused to go into committee of the whole upon a question, in the consideration of which we have heard gentlemen discuss subjects that have nothing to do with it. This is the reason why I have invariably voted against going into committee of the whole upon this subject. We have voted down the proposition to go into committe of the whole, upon this matter. The question now pending is to go into committee of the whole upon this question at seven o'clock this evening. If we reconsider the vote already taken and go into committee of the whole upon this question now, we shall spend this whole day in discussion upon the Kansas and Nebraska bill. The people of the country have voted already upon this question, and the voice of this country has been pronounced upon it. I hope we will not reconsider the vote by which we refused to go into committee of the whole, but that we will now lay aside all this discussion upon political topics and proceed at once to the consideration of the school question, the most important question which this convention has yet had before it.

Mr. HARRIS. It strikes me that we have a question of reconsideration previously introduced. There was a question made to reconsider this question of printing.

The PRESIDENT. The Chair did not understand that it was seconded.

Mr. HARRIS. I seconded it myself. I think that would be the first question in order, if the decision of the Chair be correct, and I suppose it is.

Mr. WILSON. I would ask whether a motion to reconsider another vote which was not stated by the Chair, can take precedence of the motion now made to reconsider.

The PRESIDENT. The Chair is of the opinion that the motion of the gentleman from Alamakee, [Mr. Clark] will take precedence.

Mr. TODHUNTER. I voted against going into committee of the whole upon this question. I did so under the conviction that we had already had enough of this discussion in a political shape. I am told, however, by members that we are compelled to have this discussion, and that we cannot get rid of it. There are matters now pending before the convention that must and will require this discussion. There is no man upon this floor more anxious to get home than I am, and that was one great reason with me for voting against taking up this resolution. I know if this question be presented here to-day in committee of the whole, that we shall not get rid of it to-day, for we have upon our side of the convention some two or three members, who are big with speeches of which they must be delivered. I am satisfied, that there are three or four upon the other side who are in the same condition. We have already a threat from one of them upon my left, [Mr. Price,] that he must answer the first speech which is made upon this question, and he tells us that he is a considerable debater upon these Kansas matters. So if we must go into this matter, we must continue the discussion nearly the whole day and perhaps to-morrow. If this matter must go on, we might as well have it the discussion to day as at any other time.

I am satisfied that, so far, we have come off the best in this matter, and that our opponents do not want any more of this discussion. They now want to back out of it, and that was another reason why I voted against going into committee of the whole, as they seemed disposed not to continue it. When men cry "enough," in a free and general fight, then I say let them alone. But my friends are not now willing to do that. I shall now vote for a reconsideration, believing that this question can be as well disposed of now as at any other time. We have already had a threat from the gentleman from Pottawatamie, [Mr. Price], that he would reply to the positions that have been taken by gentlemen upon the other side. I do not see that the discussion can be postponed.

Mr. PRICE. I desire simply to make an explanation, so far as the remarks of the last gentleman are concerned. I did not say that I was a considerable debater, and I did not assume any peculiar powers in debate. Neither have I made any threats so far as this question is concerned. I said that, although remarks had fallen from the gentleman from Lucas, [Mr. Edwards], in the discussion of this question, which were sufficient to provoke an answer from me, and which I should feel bound to answer, if this de-

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bate were permitted to go on; yet I was willing to forego all this in order that this question might be settled, and that the legitimate business of the convention might proceed. I did not arrogate to myself powers in debate, political or otherwise. The gentleman misrepresents me. If this debate should proceed, of course it would follow, in the natural order of things, that I, as a member of the minority of the committee, would feel myself bound to reply to the gentleman from Lucas, [Mr. Edwards.] With this explanation, I hope the convention will be satisfied; and I hope that no gentleman will think that I arrogate to myself powers in debate, or in any other way.

Mr. GILLASPY. I regret to see that my friend from Warren, [Mr. Todhunter,] is a gentleman of such easy virtue. He says that his friends have represented to him that this discussion has to come and shall come, and he tells us now that he is going to vote that it shall come; when upon his very last vote he said it should not come. If the majority say that we must have it, let us have it in broken doses, and speeches of fifteen minutes in length in the convention, and not in speeches of three or four hours duration in committee of the whole.

Mr. PALMER. I did hope that we should be ready to adjourn on Wednesday next, in pursuance of the resolution already adopted. But it seems there are gentlemen upon this floor who are determined to force us into a party debate in this convention, to last perhaps for several days, and which will have the effect, perhaps, to prolong the sessions of the convention a week longer than we intended. It is evident, from the remarks made by the gentleman from Des Moines, [Mr. Hall,] about the situation of the school report, that if we take it up now, we can dispose of it very soon. We had a vote once this morning for the purpose of taking it up, but the convention would not go into committee of the whole upon that subject but entered upon another debate.

Gentlemen who were opposed to renewing this political discussion, say now that they have become convinced that this party fight must come, and the sooner the better. I am not willing to prolong the session at great expense, and to the inconvenience of members, for the sake of entering upon this party discussion. The party to which I belong do not shrink from debate in the proper place; and I presume that if gentlemen upon the other side want to engage in these party discussions, they can find abundant opportunities after the convention shall adjourn, and when it can be done without expense to the State. For one, I am unwilling that the convention shall convert itself into a debating society, for the discussion of party questions. And I hope the yeas and nays will be taken upon this question, so that we may see who are in favor of entering upon this discussion.

Mr. HALL. I will detain the convention but a few minutes in reply to the gentleman from Lucas, [Mr. Edwards.] He makes the charge that this discussion has grown out of the report made by the minority of the committee upon the right of suffrage. I wish to say, by way of a preliminary remark, that this report was a copy of a report made by a committee upon this subject in the first constitutional convention that was held in this State. If that report provoked this discussion, all I have to say is, that the gentleman so far forgot his subject as not even to make mention of it in his whole speech. He did not attempt to refute a solitary argument contained in it, and indeed I could quite believe that he did not even think of it during the whole time he was making his speech. I have made this statement as to the origin of the report in justice to myself and my colleague, who joined with me in making it.

I wish to say one word for the benefit of the gentleman from Warren [Mr. Todhunter]. If it be evidence to the mind of that gentleman, that because we upon this side of the convention are disposed to devote the time of the convention to its legitimate business, we thereby acknowledge ourselves defeated in argument and overwhelmed by words, I will not have the least dispute with him. If the gentleman, and others who act with him, think that there has been enough said already to overwhelm the position assumed by the democratic party in this and the other states, I will have no dispute with them in that respect. But if gentlemen in the majority feel that during the few hours the other night there were arguments made and positions taken, which require them to occupy another day, or a longer time even, for the purpose of refuting them, then it appears to me that they are the ones who wish to fight the battle over again. I do not wish to deprive them of this privilege. If they are not satisfied, and if they think that more time of the convention must be spent, in order to meet all that has been said already upon this question, why, gentlemen, go on. But I prefer that you should take the evening for this purpose, as we did.

I feel anxious to get through with our business. We have nothing more of importance before us, except the articles on education and schedule, and the third reading of the constitution. My private business is of such a nature, that I cannot remain much longer here, and I may be compelled to leave before the convention shall conclude its sessions.

One word for the benefit of the gentleman from Henry, [Mr. Clarke.] That gentleman has the privilege, not only of lecturing his political friends, but his political opponents. We have had constant and repeated curtain lectures from that gentleman, ever since the convention commenced its sessions. Of this I do not wish to complain; it is all right and proper. But I hope, as we draw near the close of the convention, that that gentleman will be very mild and lenient, and when he says gentlemen upon the other side have occupied too much time, that he will not forget, that he has had his full share of

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the time of this convention. No one has encroached upon his rights, and I do not believe that any one has occupied more time of this convention than he has. We all have our faults in this matter of speaking too much, perhaps. I confess that I have, but at the same time I protest against this kind of complaint indulged in here without any reasonable provocation. I do not wish to be placed under that kind of espionage; I wish to be delivered from lectures of this kind. And I wish to say to gentlemen once for all, that they do not serve a good purpose in my case. I do not feel like obeying such mandates with any degree of alacrity. If the majority are disposed to occupy the time of the convention for two or three days, in discussing the question whether this matter should be submitted to the people, let them do so. They cannot occupy that time in discussing the real question at issue. The true merits of this question cannot be made the subject of a very lengthy discussion. And I acknowledge to the convention that the remarks I made the other evening, had very little to do with the question before the committee, and I should not have made them at all, had I not been provoked to do so by the most extraordinary assault of the gentleman from Lucas [Mr. Edwards,] upon the democratic party.

Mr. CLARKE, of Henry. I should not have offered another remark, but for the reference to me. The gentleman has characterised my remarks here by the epithet of "curtain lectures," and he wishes to inform me that these lectures do not do him any good. I really did not know that my lectures were of that character at all. Probably the gentleman is a better judge of what curtain lectures are than I am myself. I regret that that kind of lectures should have no effect upon the gentleman, that he should be proof against them. But certainly the gentleman ought to be free, while in this convention, from this kind of espionage and lecturing, and so far as I am concerned, he shall be free. He says that he is about to leave us here, that he must soon return home. Why should he be tormented before his time? I certainly did not intend to lecture the gentleman at all. I merely said to gentlemen who were clamoring here about consuming time—look at the clock; that is all. Here they have consumed all the morning, and it is half past eleven o'clock, in talking about going into committee of the whole; and now they want it to go out that the republicans are responsible for this consumption of the time of the people. I want it to go out to them how this thing is; that at half past eleven o'clock, we have not got to a vote. That is all. It is not lecturing at all. It is merely stating the facts as they exist. And I will now do, in order to save time, what I have never done before in this convention. I will move the previous question.

The previous question was seconded, and the main question ordered to be put.

The question being then taken, by yeas and nays, upon reconsidering the vote refusing to go into committee of the whole upon the resolution reported by the select committee on the right of suffrage, it was not agreed to; yeas 14, nays 16, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Scott, Skiff, Todhunter and Wilson.

Nays—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Seely, Solomon and Warren.

Mr. SKIFF, when his name was called, said: I have been talking with members, and I understand that the vote in relation to printing cannot be reconsidered, and there is nothing to do to-day; so I vote aye.

Mr. PATTERSON. Will it be in order to move to take up those resolutions, and act upon them in convention.

The PRESIDENT. They are already before the convention.

Mr. HARRIS. I move the previous question upon their passage.

Mr. WILSON. I wish to offer an amendment.

Mr. HARRIS. I will withdraw for that purpose.

The resolution was read as follows:

"*Resolved*, That at the same election that this Constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white" from the constitution wherever it occurs, shall be separately submitted to the electors of this State for adoption or rejection, in the manner following, viz: A separate ballot may be given by every person having a right to vote at said election to be deposited in a separate box. And those given for the adoption of such proposition shall have the words "Shall the word "white" be stricken out of the constitution wherever it occurs? Yes." And those given against the proposition shall have the words "shall the word "white" be stricken out of the constitution wherever it occurs? No." And if at said election the number of ballots cast in favor of said proposition, shall be equal to a majority of those cast for and against said proposition, then said word "white" shall be stricken from the constitution, and be no part thereof."

Mr. WILSON. I move to strike out the words "said proposition," in the last clause of the resolution, and to insert the words "this constitution;" so that it shall read—

"And if at said election the number of ballots cast in favor of said proposition, shall be equal to a majority of those cast for and against this Constitution, then said word "white" shall be stricken from the constitution, and be no part thereof."

Mr. CLARKE, of Johnson. It is nearly 12

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o'clock; I move that the convention now take a recess until 2 o'clock.

Upon this question—

Mr. GILLASPY called for the yeas and nays, and they were ordered.

The question being then taken, by yeas and nays, upon the motion to take a recess, it was not agreed to; yeas 13, nays 18, as follows:

Yeas—Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Ells, Gower, Gray, Hollingsworth, Scott, Skiff, Todhunter, Warren, Wilson and Young.

Nays—The President, Messrs. Ayres, Clark of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Seely and Solomon.

Mr. MARVIN. I move the amendment which was attached, I think, in committee of the whole.

Mr. HARRIS. I now renew the previous question, which I withdrew only to get the amendments in.

Mr. GILLASPY moved a call of the house.

The roll having been called, the Secretary reported the following absentees:

Messrs. Parvin, Robinson, Traer and Winchester.

On motion of Mr. DAY,

Mr. Robinson was excussd.

Mr. TRAER subsequently appeared and took his seat.

Mr. PATTERSON. I ask that Mr. Winchester be excused. He told me this morning that he was going to Muscatine. I presume he is there.

Mr. TODHUNTER. We will take care of Mr. Winchester. We would rather he should not be excused. I do not think he went.

Mr. CLARK, of Alamakee. I object to excusing Mr. Winchester.

Mr. YOUNG moved that the convention take a recess until 2 o'clock.

The question being then taken, by yeas and nays, upon the motion to take a recess, the motion was agreed to; yeas 19, nays 13, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, and Solomon.

The convention accordingly took a recess until 2 P. M.

EVENING SESSION.

The convention re-assembled at 2 o'clock P. M., and was called to order by the President.

The PRESIDENT stated that at the time of taking a recess a call of the house was pending.

Mr. MARVIN moved that further proceedings under the call be dispensed with.

The motion was not agreed to, upon a division, ayes 9, noes 10.

Mr. HARRIS. I voted under a misapprehension. I move a reconsideration.

The motion to reconsider was not agreed to, upon a division, ayes 10, noes 10.

Mr. GILLASPY. If the convention is to wait until the cars come in, I move that the convention take a recess for twenty minutes. I do not think they will be here within that time.

Mr. HALL. I hope there will be one thing that the convention will adhere to for at least six hours.

The motion to take a recess was rejected.

Mr. PATTERSON inquired what members were absent.

The PRESIDENT. Messrs. Parvin and Winchester.

Mr. SKIFF. Will it be in order to move that we have a Quaker meeting this afternoon? (Laughter.)

Mr. PATTERSON moved that further proceedings under the call be dispensed with.

The PRESIDENT. The chair is of the opinion that it is not in order until the sergeant-at-arms makes his report.

Mr. TRAER. Will a motion to excuse the gentlemen be in order.

The PRESIDENT. No, sir.

Mr. CLARK, of Alamakee. I would inquire whether this convention has not itself superseded the call of the house. It has adjourned since the call was made, and my impression is that that supercedes the call. I take it that the presumption is that the adjournment subsequent to the order for a call of the house, does away with the necessity for that call. I do not recollect what the rule is; but there is certainly some force in that position.

The PRESIDENT. The chair is inclined to a different opinion.

Mr. GIBSON. Both these gentlemen are probably at Muscatine, and it will probably take a day or two to get them here, if we are to send for them. I think we may as well adjourn for a day or two.

Mr. GILLASPY. I see that the sergeant-at-arms is present, and engaged in writing. It is his report, I presume, and that may relieve us from this difficulty.

The report of the sergeant-at-arms was read by the secretary, as follows:

"Messrs. Parvin and Winchester not present, but reported to have gone to Muscatine."

Mr. GILLASPY. I move that the conventi on take a recess until such time as the cars m ay arrive from Muscatine.

The PRESIDENT. That is not in order.

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Mr. SKIFF. I move that the convention resolve itself into committee of the whole upon the right of suffrage.

The PRESIDENT. That is not in order until further proceedings under the call have been dispensed with.

Mr. SKIFF. I move that further proceedings under the call be dispensed with.

The question being taken, the motion was agreed to.

Mr. SKIFF. I now move that the convention resolve itself into committee of the whole upon the article on the right of suffrage.

Mr. GILLASPY. I call for the yeas and nays upon that question.

Mr. SKIFF. I call the previous question upon it.

Mr. HARRIS. There is a previous question pending.

The PRESIDENT. That motion has the precedence.

Mr. CLARKE, of Johnson. If gentlemen insist upon that, I shall move another call of the house. If it is the determination of gentlemen to press us to vote upon this article on the right of suffrage, in the absence of the members who have gone to Muscatine, I shall be under the necessity of moving for another call of the house. The gentleman from Muscatine, [Mr. Parvin,] thought he should have time to go over there while this was being discussed; but I know he is anxious to vote upon it, and I know that he represents a very large community of the colored people of this State. I am opposed to taking the vote in his absence. I repeat that if gentlemen insist upon the previous question, I shall be under the necessity of ordering a call of the house.

Mr. GILLASPY. I wish to say in reply to the gentleman from Johnson, that if the majority of this convention intend to require gentlemen to remain here, for God only knows how long, one, two, three, or four days, waiting for a gentleman who lives almost in sight of the capital, and who has gone home every Saturday afternoon and come back on Monday, while we have been kept here now for seven weeks, if he is to rise in his place and keep moving a call of the house until the cars arrive, and the gentleman gets back, I should like to see him do it. I am opposed to this.

The PRESIDENT. The question is upon ordering the article upon the right of suffrage to a third reading. Upon this the motion for the previous question has been made and seconded. The question is: Shall the main question be now put?

Upon this question,

Mr. CLARKE, of Johnson, called for the yeas and nays, which were ordered.

The question being then taken, by yeas and nays, upon ordering the main question, it was not agreed to; yeas 14, nays 17, as follows:

Yeas—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Seely, and Solomon.

Nays—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Clark of Alamakee, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Scott, Skiff, Todhunter, Traer, Warren, and Wilson.

Mr. SKIFF. I now renew my motion to go into committee of the whole.

Upon this motion,

Mr. PATTERSON called for the yeas and nays, which were ordered.

The question being then taken, by yeas and nays, upon going into committee of the whole, it was agreed to; yeas 17, nays 14, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Scott, Seely, Skiff, Todhunter, Traer and Wilson.

Nays—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Solomon and Warren.

Committee of the Whole.

The Convention accordingly resolved itself into committee of the whole [Mr. Clark, of Alamakee, in the chair], and resumed the consideration of the resolution reported from the select committee on the right of suffrage, proposing to submit to the people of this state, as a separate proposition, the question whether the word "white" should be stricken from the constitution, wherever it occurs.

Suffrage Restricted to Whites.

The pending question was upon the amendment of Mr. Skiff, to strike out "constitution" and insert "article on the right of suffrage," so as to restrict the vote of the people to the simple question whether the word "white," shall be stricken out from the article on the right of suffrage, instead of leaving the question to be whether it shall be stricken out wherever it occurs in the constitution.

Mr. CLARKE, of Johnson. Wherever the responsibility may rest as to the debate which has resulted upon the proposition which is now before the committee, I do not feel that any responsibility rests upon my shoulders. You will bear me witness, that when this subject was first introduced, I moved to indefinitely postpone the whole matter; not because I was afraid of debate upon this subject; not because I was unwilling to trust the people in relation to it; but because I desired to cut off the debate which I anticipated would result from the introduction of this proposition. When I made that motion, I did not anticipate that the democratic party in this convention would make this a party question,

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and would take a stand against submitting to the people a proposition upon which they might vote. I only made the motion for the purpose of saving the time of this convention, and facilitating its business. And I now desire to say to gentlemen upon the other side, that since they are willing to make this a party question, and since they are willing to place themselves upon the platform of refusing to submit a question to the action of the people, I shall yield my objections, and shall go with my friends in favor of submitting this proposition. I do it, not because I suppose the proposition will be carried; not that I desire that it shall be carried, because I am free to confess that I do not desire it, and shall personally vote against it; but because in the course of this convention I have always been in favor of the largest liberty, and have always been in favor of leaving everything to the action of the people, either in their individual capacity, or through the general assembly. But I find, on the other hand, a party here, who claim to be the lovers of the people, who claim to be their peculiar defenders and advocates, but who, upon this, as upon many other questions, are unwilling to risk the action of the people. And this is all I have to say upon the main proposition which is before the committee of the whole. As proposed to be amended by the gentleman from Jasper [Mr. Skiff], I shall vote for it, and shall leave it to the action of the people, believing that they will vote to leave the matter where it now stands; that their action will be in favor of retaining the right to govern this people—that is, themselves—in their own hands.

As I anticipated, this proposition has led to a political debate here; and, sir, I propose, in the remarks I may make upon this subject, to imitate my illustrious predecessors; and, to enter into that field, I propose to imitate the gentleman from Des Moines, [Mr. Hall,]—who I perceive has abandoned his seat and run away from this discussion—and, like him, to carry the war into Africa. I propose to confine myself to a reply to him in the remarks I shall make; and that gentlemen upon the other side may not doubt my positions—that they may be enabled to apprehend and to answer them—I have written them down. The propositions which I intend to discuss are these:

1. Since 1850 the Democratic party has changed ground on the slavery question.

2. The Democratic party changed its position on this subject at the dictation of the South.

3. The sole object and purpose of that party is the extension and perpetuation of slavery.

The gentleman from Des Moines, [Mr. Hall,] in the outset of his remarks, claimed that the Democratic party was the only national party in existence in this country, and that it was the object and purpose of that party to protect alike the interests of the people, north and south. He says it is their object to have the policy of this government so formed and so directed that a man living in Iowa might be a man in Kansas or elsewhere; that he might be a man wherever the constitution and the flag of our country went.

In discussing the propositions I have laid down, I do not intend to rely upon declamation, but to confine myself to stubborn facts, and to deal in the historical records of the country. I propose to refer to the action of this Democratic party, in its political organizations, and to the declarations of its leading men to prove, not only the first, but all of my propositions.

I. My first proposition is, that the Democratic party have changed ground upon this subject since the year 1850.

When I say that up to the year 1850, upon this great question of slavery extension, there was no diversity of opinion in the public mind of the free states, I do not mistake the truth. When I state that the Whig party and the Democratic party stood upon precisely the same ground in relation to slavery extension, I state that which is but a notorious fact. I shall not refer to any Whig authority upon this subject. I shall confine myself to proving what I say in relation to the Democratic party. I may, perhaps, on this point, be tedious, but I ask gentlemen to bear with me, and, at least, to give me a hearing; not gentlemen upon my own side of the house, but gentlemen upon the Democratic side of the house; because I am seeking to establish propositions here, not for the mere purpose of discussion, but for the purpose of placing upon the records of this Convention, evidence that will become a part of its history. And I am pleased with the reflection, that when gentlemen on the other side of this house place in the hands of their constituents the appeals to passion and the sarcasms which they have uttered here, they will, at the same time, give to their constituents what has been studiously withheld from them during the last six months, the evidence that this party, which claims to be the national party, is but the pro-slavery party of the country, and as much subject to the commands, and as obedient to the lash of the taskmasters of the south as are the slaves at the south themselves.

I propose to commence with the State of Maine, and to show what has been the position of the Democratic party in that State upon this question of slavery extension. I find that in 1847, when Hon. John W. Dana was Governor of the State of Maine, and when the legislature was strongly Democratic, in his annual message to the general assembly, he uses this language:

"The territory which we may acquire as indemnity for claims upon Mexico is free; shall it be made slave territory? The sentiment of the free states is profound, sincere, and almost universal, that the influence of slavery upon productive energy is like the blight of mildew—that it is a moral and a social evil; that it does violence to the rights of man, as a thinking, reasoning and responsible being; that its exist-

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ence in this territory will shut out free labor, because the free man will not submit himself to the degradation which attaches to labor wherever slavery exists. Influenced by such considerations, the free states will oppose the introduction of slavery into the territory which may be acquired."

And in speaking of the *right* of slaveholders to hold their slaves in the territories of the United States, he uses the following language:

"On the other hand, the slave states claim that this territory will be acquired, if acquired at all, by the blood and treasure of all the states of the Union; to become the joint property of all; to be held for the benefit of all. And they emphatically ask, 'is it consistent with justice?' His right to acquire and possess property is one of the inherent rights of man, independent of laws and constitutions. Not so with the right to his slave; that is *an unnatural, an artificial, a statute right*; and when he voluntarily passes with a slave to a territory where the statute recognizing the right does not exist, then at once the right ceases to exist. *The slave becomes a free man, with just as much right to claim the master as the master to claim the slave.*"

This Democratic legislature of Maine responded to the message of the Governor, from which I have read, by adopting the following resolutions:

"*Resolved*, That the sentiment of this State is profound, sincere, and almost universal, that the influence of slavery upon productive energy is like the blight of mildew; that it is a moral and social evil; that it does violence to the rights of man, as a thinking, reasonable, and responsible being. Influenced by such considerations, this State will oppose the introduction of slavery into any territory which may be acquired as an indemnity for claims upon Mexico.

"*Resolved*, That, in the acquisition of any free territory, whether by purchase or otherwise, we deem it the duty of the General Government to extend over the same the Ordinance of 1787, with all its rights and privileges, conditions and immunities.

"*Resolved*, That our senators be instructed, and our representatives requested, to support and carry out the principles of the foregoing resolutions."

These resolutions passed the legislature with but six votes in opposition. They indorse the sentiments of the Governor—repeating his very language. So that in 1847, we see that it was Democratic doctrine in the State of Maine, that Congress had the right to prevent the introduction of slavery into the territories. The next year, another Democratic legislature met in Maine, and it passed these resolutions:

"*Resolved*, That Maine duly appreciates the concession and compromises which led to the adoption and establishment of the Constitution of the United States; and she will cheerfully and honestly abide by the letter and spirit of them. At the same time she will firmly resist all demands for their enlargement and extension.

"*Resolved*, That the sentiment of this State is profound, sincere, and almost universal, that the influence of slavery upon productive energy is like the blight of mildew; that it is debasing and degrading in its influence upon free labor; that it is a moral and social evil; that it does violence to the rights of man as a rational, thinking, and accountable being; influenced by these and other important considerations, this State will firmly oppose the introduction of slavery into any territory acquired as an indemnity for claims upon Mexico.

"*Resolved*, That it is the duty of Congress to prevent, by the exercise of all constitutional power, the extension of slavery into territory of the United States now free.

"*Resolved*, That our senators in Congress are hereby instructed, and our representatives requested, to support and carry out the principles of the foregoing resolutions."

Let us pass into the next year. In 1849, the democracy of Maine held a convention to nominate state officers, at which John Hubbard was nominated as their candidate for governor. That convention passed the following resolutions:

"*Resolved*, That the institution of human slavery is at variance with the theory of our Government, abhorrent to the common sentiment of mankind, and fraught with danger to all who come within the sphere of its influence; that the Federal Government *possesses adequate power to inhibit its existence in the Territories of the Union; that the constitutionality of this power has been settled by judicial construction, by cotemporaneous expositions, and by repeated acts of legislation*; and that we enjoin upon our Senators and Representatives in Congress to make every exertion, and employ all their influence, to procure the passage of a law *forever excluding slavery* from the territories of California and New Mexico.

"*Resolved*, That while we most cheerfully concede to our southern brethren the right, on all occasions, to speak and act with entire freedom on questions connected with slavery in the territories, we claim the exercise of the same right for ourselves; and any attempt, from any quarter, to stigmatise us or our representatives for advocating or defending the opinions of our people upon this subject, will be repelled as an unwarrantable act of aggression upon the rights of the citizens of this state."

This was the position taken by the convention which nominated Mr. Hubbard; and now let us see the position assumed by Mr. Hubbard himself. Being interrogated, during the canvass, in relation to his position upon the slavery question, he responded in the following letter:

HALLOWELL, July 17, 1849.

Gentlemen: Yours of the 16th, requesting a "statement of my views in relation to the ex-

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tension of slavery into the territories of the United States now free," is before me. The question in all its practical bearings, as a subject of deliberative and solemn legislation, is an extensive one. I can only give here a brief statement of the principles which would guide my action upon it.

First. I believe Congress to have entire constitutional jurisdiction over the whole subject of Slavery in the territories of the United States.

Second. I am opposed to slavery in all its bearings, moral, social and political, and especially am I opposed to its extension.

Third. I would adopt all constitutional and equitable means to prevent the extension of slavery into territories now free.

Hoping, gentlemen, that this brief *expose* will meet your views, I am, with sentiments of respect and regard, yours,

JOHN HUBBARD.

Messrs. Adams Treat, Thomas M. Merrow, William Merriam, Arthor Treat, Jesse Smart, John Hodgdon, P. Simonton, G. N. White, Nathan Worthing, Daniel Wentworth, Joseph Bachelder, Daniel Smith.

I think that no one can doubt that the democratic party in Maine, up to the year 1850, stood fully committed against the extension of slavery into the territories of the United States.

Let us now come to New Hampshire, the democratic State, which used to be to that party the star in the east—the State which was formerly to the democratic party, what Vermont was to the whig party,—the State which never failed to go for the democratic candidate. And here, too, let us commence with 1847. I find that the democratic State committee of New Hampshire in October, 1847, passed this resolution:

"*Resolved*, That we declare it our solemn conviction, as the democratic party have heretofore done, that neither slavery nor involuntary servitude should hereafter exist in any territory which may be acquired by or annexed to the United States; and that we approve of the votes of our delegation in Congress in favor of the Wilmot Proviso."

Such was the declaration of the leaders and managers of the democratic party in New Hampshire in 1847. In 1848, the democratic legislature of that State passed this resolution:

"*Resolved by the Senate and the House of Representatives in General Court convened*, That we are in favor of the passage of a law, by Congress, forever prohibiting slavery in New Mexico and California, and in all other territories now acquired, or hereafter to be acquired, by the United States, in which slavery does not exist at the time of such acquisition."

In 1849, the next year, another democratic legislature of the same State, passed the following resolution by a unanimous vote:

"*Resolved by the Senate and House of Representatives in General Court convened*, That, opposed to every form of oppression, the people of New Hampshire have ever viewed with deep regret the existence of slavery in this Union; that while they have steadfastly supported all sections in their constitutional rights, they have not only lamented its existence as a great social evil, but regarded it as fraught with danger to the peace and welfare of the nation.

"*Resolved*, That while we respect the rights of the slaveholding as well as the free portions of this Union—while we will not willingly consent that wrong be done to any member of the glorious confederacy to which we belong, we are firmly and unalterably opposed to the extension of slavery over any portion of American soil now free.

"*Resolved*, That, in our opinion, Congress has the constitutional power to abolish the slave trade and slavery in the District of Columbia; and that our Senators be instructed, and our Representatives be requested, to take all constitutional measures to accomplish these objects." [See Speech of Senator Hale.]

So far then as the States of Maine and New Hampshire are concerned, I think that the resolutions I have read, emanating from the highest source of authority in the party, establish the fact that up to the year 1850, it was democratic doctrine to talk and vote against the extension of slavery. The position of Maine and New Hampshire upon this question, is the position of every eastern State. Massachusetts occupied the same ground. In the year 1849, Benjamin F. Hallett, now an office-holder under Franklin Pierce, and the Chairman of the State Central Committee of Massachusetts, offered in the democratic convention a resolution similar in character and as strong in language, which was adopted by the democracy of that State. That resolution is in the following language:

"*Resolved*, That we are opposed to slavery in every form and color, and in favor of freedom and free soil, wherever man lives, throughout God's heritage; that by common law and common sense, as well as by the decision of the supreme court of the United States, the state of slavery is a mere municipal regulation, founded upon and limited to the verge of the territorial law—that is, the limits of the state creating it; that as slavery does not exist by any municipal law in the new territories, and Congress has no power to institute it, the local laws of any state authorising slavery can never be transferred there, nor can slavery exist there but by a local law of the territories, sanctioned by Congress, or the legislative act of a state in its sovereign capacity; that we are opposed to the extension of slavery to free territories; *and in favor of the exercise of all constitutional and necessary means to restrict it to the limits within which it does or may exist by the local laws of the states.*"

Now let us come to Pennsylvania; for it is useless to consume the time of the convention in proving the position of New York upon this question. No one will be hardy enough to call

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in question the fact, that the democracy of New York were previous to 1850 opposed to the extension of slavery.

In 1849, the Democratic state convention of Pennsylvania, assembled in Pittsburg, passed the following resolutions:

"*Resolved*, That the Democratic party adhere now, as it ever has done, to the constitution of the country. Its letter and spirit they will neither weaken nor destroy, and they declare that slavery is a local, domestic institution of the South, subject to state alone, and with which the general government has nothing to do. Wherever the state laws extend its jurisdiction, the local institution can continue to exist. *Esteeming it a violation of state rights to carry it beyond state limits*, we deny the power of any citizen to extend the area of bondage beyond its present dominion; nor do we consider it a part of the compromise of the constitution, that slavery should forever travel with the advancing column of our territorial progress."

During the same year, 1849, the Democracy of Bradford county passed this resolution:

"*Resolved*, That Congress possesses legislative power over the subject of slavery in the territories of the United States, and ought so to exercise that power as effectually to prevent the establishment or sufferance of slavery. While we thus re-affirm these principles, we concede to our Democratic brethren of the South the same freedom of thought and of expression which we claim for ourselves." &c.

This resolution was copied into the Pennsylvanian of September 10, 1849, the paper edited by John W. Forney, the nearest and dearest friend of the Democratic President elect of this Union; and what does he say with regard to the sentiments of the Bradford Democracy? Does he denounce them as heterodox, or as leading to disunion?

Here is what he says:

"It is a long period of time since we have been more gratified than by the indication of a spirit of conciliation contained in the following resolution."

He then quotes the resolution which I have just read, and proceeds to say:

"Every democrat in the Union will hail this resolution as oil poured upon the troubled waters. It asserts the broad principle, that there is no intention on the part of those who entertain particular views on the slavery question to make their views a "political test"—an avowal that will be universally applauded, and everywhere greeted with joy. The Democracy of Bradford have set a noble example—an example that cannot fail to be generally followed, and thus lead to the happiest results. It is the belief entertained in many quarters, North and South, that the object was entertained of interpolating the national democratic creed with the test here disavowed, that has led to all difficulties upon the question of slavery. This impression is completely dissipated by the resolution adopted by the Bradford Democracy—thus leaving to every member of the Democratic party the right of entertaining and urging whatever sentiments upon the subject may seem to him best, without hazarding his political position, and losing the confidence of his party."

Yes, sir, in 1849 Mr. Forney approves a resolution which asserts the right of Congress to legislate upon the subject of slavery, and which denies that by the power of the constitution slavery goes wherever that constitution goes. The Pittsburg convention, whose resolution I have just read, nominated Mr. John A. Gamble as the candidate of the Democratic party for the office of canal commissioner. Upon being interrogated in relation to his views upon this question, he replies in the following letter:

"JERSEY SHORE, Sept. 13, 1849.

"F. E. SMITH, U. C. WEBB and LEVI BIGELOW, Esqrs,:

"GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 6th instant, propounding to me the following questions, in pursuance of your appointment as a committee for that purpose by a meeting of 'free soil democrats,' held at Tioga, on the 3d of September instant.

"However reluctant I feel to give publicity to my 'views' upon a subject so foreign and distinct from the duties and functions of the office for which I have the honor to be the candidate of the Democratic party, I cannot, nevertheless, decline to answer questions emanating from and deemed important by so respectable a public meeting of my fellow citizens.

"To the first question, namely, 'What are your views in relation to the constitutional powers of Congress to prohibit slavery in the territories belonging to the United States?' I answer, that, in my humble judgment, Congress possesses such constitutional power.

"To the second question, namely, 'If you believe Congress possesses the requisite authority for that purpose, are you in favor of the passage of an act extending to all such territories the principles of the Ordinance of 1787?' I answer, that I am in favor of the passage of such an act, or the adoption of any other constitutional measure deemed necessary, in order to prohibit the further extension of human slavery.

"With sentiments of the highest respect, I remain your obedient servant,

"JOHN A. GAMBLE."

In the face of that public declaration, Mr. Gamble was elected by the Democracy, Canal Commissioner for the State of Pennsylvania.

It would hardly be respectful in me to pass on, without quoting here the opinions of the very distinguished gentleman I have alluded to—the rising sun of Democracy; and I propose now to show that his opinions were upon the subject of slavery extension, up to the year

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1850, coincided with the resolutions and views above expressed.

I shall go back to the year 1819, when this country was convulsed in relation to the Missouri question, which created an excitement never equalled since that date, until the repeal of the Missouri compromise. I find that James Buchanan had something to say upon this Missouri question. On the 24th of November, 1819, at a public meeting of the people of Lancaster, Pennsylvania, James Buchanan was one of the committee upon resolutions. The resolutions reported by that committee, and unanimously adopted by that meeting, were as follows:

"Whereas, The people of this State, pursuing the maxims and animated by the beneficence of the great founder of Pennsylvania, first gave effect to the gradual abolition of slavery by a national act, which has not only rescued the unhappy and helpless African within their territory from the demoralizing influence of slavery, but ameliorated his state and condition throughout Europe and America; and whereas, it would illy comport with these humane and Christian efforts to be silent spectators when this great cause of humanity is about to be agitated in Congress, by fixing the destiny of the new domain of the United States; therefore,

"*Resolved*, That the representatives in Congress from this district be, and they are hereby most earnestly requested to use their utmost endeavors, as members of the National Legislature, *to prevent the existence of slavery in any of the territories or new States*, which may be erected by Congress.

"*Resolved*, As the opinion of this meeting, that, as the legislature of this State will shortly be in session, it will be highly deserving of their wisdom and patriotism to take into their early and most serious consideration the propriety of instructing our representatives in the National Legislature to use the most zealous and strenuous exertions to *inhibit the existence of slavery in any of the territories or States*, which may hereafter be created by Congress; and that the members of the Assembly from this county be requested to embrace the earliest opportunity of bringing the subject before both houses of the legislature.

"*Resolved*, That, in the opinion of this meeting, the members of Congress who, at the last session, sustained the cause of justice, humanity and patriotism, *in opposing the introduction of slavery into the State* then endeavored to be formed out of the Missouri territory, are entitled to the warmest thanks of every friend of humanity.

"*Resolved*, That the proceedings of this meeting be published in the newspapers in this city."

Thus we see, that in 1819, James Buchanan was not satisfied with instructing his immediate representative in Congress to vote for the inhibition of slavery, but went so far as to impose the duty upon the members of the legislature from his county to introduce resolutions instructing the senators of the State to do the same.

In that excitement, which threatened the perpetuity of this Union, James Buchanan had not yet learned the modern doctrine of pouring oil upon the troubled elements; but with his breast warm with feelings of liberty, he reports a resolution thanking those members of Congress who, in that contest, had stood firm and prevented the admission of Missouri with her slave territory and slave constitution. The gentlemen upon the other side of the house may tell us that he was a Federalist then. That is true; but if he was a Federalist, he was also, according to the modern vocabulary of Democracy, an Abolitionist.

Let us come down to another exciting time in the history of our government. I allude to the year 1837, when Mr. Calhoun introduced into Congress his celebrated slavery resolutions. At that time, James Buchanan had emerged from obscurity. He had thrown off his Federalism. He had joined the Democratic party; and by the force of the popularity of Andrew Jackson, he had been thrown into public life. In 1837, we find him in the Senate of the United States, and occupying a prominent position as a Democratic Senator. Among the celebrated resolutions offered by Mr. Calhoun, was one which read as follows: [Calhoun's Works, vol. 3, p. 140.]

"*Resolved* That in delegating a portion of their powers to be exercised by the Federal government, the states retained severally, the exclusive and sole right over their own domestic institutions and policy, and are alone responsible for them, and that any intermeddling of any one or more states, or a combination of their citizens, with the domestic institutions and policy of the others, on any grounds or under any pretext whatever, political, moral or religious, with a view to their alteration or subversion, is an assumption of superiority not warranted by the constitution, insulting to the states interfered with, tending to endanger their domestic peace and tranquility, subversive to the objects for which the constitution was formed, and by necessary consequence, tending to weaken and destroy the Union itself."

Mr. Morris, then a democratic senator from the state of Ohio, moved to strike out the words "moral or religious." Upon this motion a very animated debate ensued, in which Mr. Calhoun took the ground that the striking out of these words would completely nullify the resolution itself. Yet I find that when the vote was taken upon striking out these words, and taking from this resolution all its marrow and pith, James Buchanan voted with the minority in the affirmative. Those who voted with him were Messrs. Bayard, Clayton, Davis, McKean, Morris, Prentiss, Robbins, Ruggles, Smith, of Indiana, Southard, Swift, Tipton and Webster; at least one-half of whom were democratic senators.

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The fifth resolution of Mr. Calhoun, and the most important of all, related to slavery in the District of Columbia, and read as follows:

"*Resolved*, That the intermeddling of any State or States, or their citizens, to abolish slavery in this district, or in any of the territories, on the ground, or under the pretext, that it is immoral or sinful, or the passage of any act or measure of Congress with that view, would be a direct and dangerous attack on the institutions of the slaveholding States."

Mr. Calhoun contended more earnestly for this resolution than any of the others, for the reason that he thought an attempt to abolish slavery in the District was threatened, and it virtually denies the power of Congress to interfere with slavery in the national territories. This resolution embraces substantially the doctrine established in the democratic platform of 1856, and which, as I shall show, as I proceed, was repudiated by the democratic national convention of 1848, by an overwhelming vote While this resolution was under consideration, Mr. Clay of Kentucky, offered the following substitute:

"*Resolved*, That when the District of Columbia was ceded by the states of Virginia and Maryland to the United States, domestic slavery existed in both of those states, including the ceded territory; and that, as it still continues in both of them, it could not be abolished within the district without a violation of that good faith which was implied in the cession, and in the acceptance of the territory, not unless compensation were made for the slaves, without a manifest infringement of an amendment of the constitution of the United States; nor without exciting a degree of just alarm and apprehension in the states recognizing slavery, far transcending, in mischievous tendency, any possible benefit which would be accomplished by the abolition."

Upon the question of substituting this resolution, which admits the right of Congress to legislate upon the subject of slavery in the national territories, Mr. Buchanan voted with the majority, and Mr. Clay's resolution substituted for that of Mr. Calhoun. The latter then moved to amend Mr. Clay's resolution, by adding these words: "that any attempt of Congress to abolish slavery in the territories, would be a dangerous attack upon the states in which slavery exists." Upon this proposition, Mr. Buchanan not only voted in the negative, but actually addressed the Senate in opposition to its adoption, and it was rejected. These votes will be found recorded in the sixth volume of the Congressional Globe, page 58, to which members are referred.

We have followed Mr. Buchanan from 1819 to 1837. Let us now take another step, and see where he stands ten years later. Upon the 25th of August, 1847, James Buchanan was invited to an agricultural festival in the county of Berks—good old Berks! How often she has saved the democracy; how often is she applauded as the very keystone of the Keystone State itself! Now, I beg leave to read to the convention the toast which that great democrat, James Buchanan, sent to that meeting:

"*The Missouri Compromise:* Its adoption in 1820 saved the Union from threatened evil; its extension in 1848 to any new territory which we may acquire, will secure the like happy result."

In connection with this toast, Mr. Buchanan gave his views, which I need not read. Suffice it to say, that he took decisive ground in favor of the extension of the ordinance of 1787 over new territories. But, I am aware, sir, that there was some controversy in relation to the meaning of that letter. Certain southern gentlemen were inclined to put a different construction upon it; and in 1848, Mr. T. Sandford wrote to Mr. Buchanan upon the subject, and inquired whether his views of it was correct. I beg leave to read Mr. Buchanan's reply:

"WASHINGTON, Aug. 21, 1848.

"*Dear Sir:* I have just received yours of the 12th inst., in which you submit to me the following paragraph, and ask whether it contains an accurate version of the conversation between us, concerning my Berks county letter, on the occasion to which you refer:

"Happening to meet Mr. Buchanan at the President's levee, on Friday evening, I called his attention to this letter, and asked him if he intended to be understood as claiming that the population of a territory in an unorganised capacity, had the right to control the question of slavery in such territory. He declared that no such idea had ever been maintained by him; that the construction put upon his language by Mr. Yancey was a perversion of its plain and obvious meaning; that, in his opinion, the inhabitants of a territory, as such, had no political rights, [although they possessed all the private rights of American citizens,] that they had no power whatever on the subject of slavery, and they could neither interdict nor establish it, except when assembled in convention to form a State Constitution. He further authorized and requested me to make any public use of these declarations that I might think proper, to correct any impression which Mr. Yancey's construction of his language in the Berks letter might have made."

"With the addition which I have inserted between brackets, this statement is substantially, and almost literally correct, according to my recollection.

"Any other construction of the letter would render it essentially inconsistent with itself. Having urged the adoption of the Missouri Compromise, the inference is irresistible *that Congress*, in my opinion, *possesses the power to legislate upon the subject of slavery in the territories*. What an absurdity would it then be, if, whilst asserting this sovereign power in Congress, *which power from its nature must be exclusive*, I should in the very same breath, also claim this

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identical power for the population of a territory is an unorganized capacity. In conclusion, I desire to reiterate and reaffirm every sentiment contained in my Berks county letter. *I cling to the Missouri Compromise with greater tenacity* THAN EVER, and yet firmly believe that it will be adopted by Congress.

"Yours, very respectfully,
"JAMES BUCHANAN."

Thus, sir, in 1848, we find James Buchanan, not only distinctly asserting the right of Congress to legislate upon the subject of slavery in the national territories, but repudiating the doctrine of squatter sovereignty as expounded by Lewis Cass, and clinging to the Missouri Compromise with more tenacity than ever. And upon this ground, Mr. Buchanan stood, until he became the nominee of the Cincinnati Convention, and lost his identity in the democratic platform of 1856.

Let us next look at the portion of the democracy of Indiana; and I shall, for want of time, confine my reference to that State to a single authority. The witness whom I shall put upon the stand, is the gentleman who has attained a very recent distinction, in having been allowed to occupy a seat in the Senate of the United States, by one of the grossest frauds ever perpetrated by a political body. I allude to Graham N. Fitch. In 1849, he was a candidate for Congress, as Representative for Indiana, and was interrogated as to his views upon the slavery question. Here is the letter, and his reply:

PLYMOUTH, Aug. 4, 1849.

"*Sir:* As there are a few who think you have not been quite definite enough on some of the questions involved in the present canvass, I wish you to answer the following questions, to wit:

"1st. Will you, if elected, *vote for the unconditional* repeal of slavery in the District of Columbia?

"2d. Will you vote for the abolition of the inter-State slave trade?

"3d. Will you vote for the Wilmot Proviso being extended over the territory of California and New Mexico, and against any law authorizing slaves to be taken there as property?

"Please answer the above questions yes or no, without comment.

"GRAVE POMEROY."

To these questions, the response was—

"*With pleasure I answer 'yes'* to the above questions. GRAHAM N. FITCH."

He then adds:

"Entertaining the view indicated in my answer above, I shall *not only* vote 'yes' on these measures, but if no older or abler member, whose influence would be greater than mine, introduces them into Congress, *I shall do so myself*, if I have the honor of holding a seat there.

G. N. FITCH."

I suppose that Graham N. Fitch was good democratic authority in 1849, when he was the candidate of that party for Congress, as he is now a good democrat, holding a seat in the Senate of the United States.

Let us now come still nearer home, and look at the action of our neighboring Democratic state of Illinois. In 1849 the legislature of that state, then Democratic, passed this resolution:

"*Resolved, by the Senate of the State of Illinois the House of Representatives concurring,* That our Senators in Congress be instructed, and our Representatives be requested, to use all honorable means in their power to procure the enactment of such laws by Congress, for the government of the countries and territories of the United States, acquired by the treaty of peace, friendship, limits and settlement, with the Republic of Mexico, concluded February 2, 1848, as shall contain the express declaration that there shall be neither slavery nor involuntary servitude in said territories, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted."

The Democratic Convention which nominated Dr. Moloney for Congress, who was the successor of John Wentworth, passed the following resolution:

"*Resolved,* That we are *uncompromisingly opposed to the extension of slavery;* and, while we would not make such opposition a ground of interference with the interests of the states where it exists, yet we moderately but firmly insist that it is the *duty of Congress to oppose its extension to country now free, by all means compatible with the obligations of the constitution,* and with good faith to our sister states; that *these principles were recognized by the ordinance of* 1787, which received the sanction of Thomas Jefferson, who is acknowledged by all to be the great oracle and expounder of our faith."

I have still, Mr. Chairman, another authority; and it is that emanating from the Democratic party itself, in its highest convocation. I allude to the Democratic platform of 1848, and the action of the convention which adopted it. In that convention, which nominated Lewis Cass and William O. Butler, this resolution was passed:

"That Congress has no power, under the constitution, to interfere with or control the domestic institutions of the several states, and that such states are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the constitution; that all efforts of the abolitionists and others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences, and that all such efforts have an inevitable tendency to diminish the happiness of the people and endanger the stability and permanence of the Union, and ought not to be countenanced by any friend of our political institutions."

It will be observed that this resolution has sole reference to slavery in the states. It says not a word about slavery in the territories, for that was a question upon which the same doc-

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trine was recognized and believed by men of all parties. But that it had no reference to, and contains no sanction of, the doctrine of the modern Democracy upon this q estion, is sufficiently established by the fact, that it was written by Silas Wright, an anti-slavery Democrat of New York, who would no more have voted to carry slavery into the territories than for any other absurd and unconstitutional measure. And that this resolution means just what I say it means, and no more than this, is shown also by the subsequent action of that very convention; for this very modern doctrine, that Congress has no right to interfere with slavery in the territories, and that slavery is permitted to go into the territories by the constitution, was voted down by this convention, not receiving a single vote from a free state. Among the members of the committee upon resolutions, in this Democratic convention of 1848, was one William L. Yancey, of Alabama, who made a minority report from that committee, signed by himself and a member from Florida, and one from South Carolina. Their report concludes with the following resolution:

"*Resolved*, That the doctrine of non-intervention with the rights of property of any portion of the people of this confederacy, be it either in the states or territories thereof, by any others than the parties interested in them, is the true republican doctrine recognized by this body."

Upon the passage of this resolution, affirming the doctrine of the modern Democracy, the yeas and nays were called, and the following is the result:

	Yeas.	Nays.
Maine,	0	9
New Hampshire,	0	6
Massachusetts,	0	12
Vermont,	0	6
Rhode Island,	0	4
Connecticut,	0	6
New Jersey,	0	7
Penusylvania,	0	26
Delaware,	0	3
Ohio,	0	23
Indiana,	0	12
Illinois,	0	9
Michigan,	0	5
Iowa,	0	4
Missouri,	0	7
Wisconsin,	0	4
Maryland,	1	6
Virginia,	0	17
North Carolina,	0	11
South Carolina,	9	0
Georgia,	9	0
Florida,	0	3
Alabama,	9	0
Mississippi,	0	6
Louisiana,	0	6
Texas,	0	4
Arkansas,	3	0
Tennessee,	1	12
Kentucky,	1	11
Total,	36	216

It seems, therefore, that the proposition received thirty-six votes, every one of which came from the slave States; every delegation from the free States voting unanimously against this proposition! Aye, sir, the Democracy of Iowa then repudiated this doctrine. This may be news to some gentlemen upon this floor; but if these things are so, of which I have offered abundant testimony, what becomes of the assertion of the gentleman from Des Moines, [Mr. Hall], that the Democratic party of to-day is the Democratic party of other days—the party which put this government in motion—which gave it character, and the prosperity which it now enjoys?

I might multiply these proofs, Mr. Chairman, to an indefinite extent, did time permit; but I will forbear. Suffice it to say, that the Democratic party of to-day holds no one sentiment upon the subject of slavery in common with the Democratic party of other days; and the declaration of the Cincinnati Enquirer, in 1843, that "the man who was a Democrat twenty-five years ago, and entertains the principles NOW that the party did THEN, and has not *progressed* with the party, is just twenty-five years behind the times and the party," is as true now as it was in 1843. This declaration was made with reference to the progress of that party, in relation to the tariff and a national bank, but is equally applicable to the slavery question. The party *has progressed;* and have become the defenders and advocates of that system which Mr. Jefferson wished to see abolished, and which he pronounced "the most unremitting despotism," on the part of the master, and "degrading submission" on the part of the slave.

The question naturally arises, what has produced this change in the position of the democratic party; and this brings me to my second proposition, that the democratic party changed its position at the dictation of the south. I concur in the remark of the gentleman from Des Moines, that the democratic party has made a contract with the south that there should be no politics between them. There has been a contract, and it has been made since the year 1850. The result of this contract is that the south have put into the platform of the democratic party a doctrine which had been rejected by them through the whole history of our government, and which had been repudiated by every public northern man who had taken any prominent part in the affairs of the government. The year 1850 is memorable for what are called the compromise measures. By a union of the whigs and democrats of this country, an effort was made to settle the question of slavery; and certain measures were passed, odious in their character and disgraceful to the age, and the country in which we live; and yet, sir, abhorrent as they were to the moral sense of the people of the free states, they resolved to acquiesce; the democratic party, claiming the credit of it, went into power in 1852. Now let us see what they affirm in their democratic platform of 1852. In that year the democratic party reaffirmed the

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resolution adopted by the democratic convention in 1848,—the resolution written by Silas Wright,—but they added more to it; and here is what they added:

"*Resolved*, That the foregoing proposition covers, and was intended to embrace, the whole subject of slavery agitation in Congress, and, therefore, the democratic party of the Union, standing on this national platform, will abide by and adhere to a faithful execution of the acts known as the compromise measures settled by the last Congress, "the act for reclaiming fugitives from service or labor," included; which act, being designed to carry out an express provision of the constitution, cannot, with fidelity thereto be repealed or so changed as to destroy or impair its efficiency.

"*Resolved*, That the democratic party will resist all attempts at raising, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be made."

These resolutions, Mr. Chairman, give to the resolution of Silas Wright, a construction it was never intended to bear, and which he himself would never have assented to, had his life been spared. Between 1848 and 1852, the south had gained the fugitive slave law, and were preparing their measures for the repeal of the Missouri Compromise. Their eyes were turned toward the fair plains of Kansas. It was necessary to take one step in advance of their former position, and to commit the democratic party, not only to the support of the fugitive slave law, but to opposition to any discussion upon the subject of slavery. Thus a construction was given to the resolution of 1848, which the writer never anticipated, and which the great mass of the party never sanctioned. The same influences were at work in the old whig party. That party had become faithless to the principles of civil liberty. It had learned from the opposition, that subserviency to the south, was requisite to success; and that party adopted the same principle, and resolved that it would resist the agitation of slavery, in and out of Congress. That resolution was the death of the whig party. The contest of 1852, resulted in the election of Franklin Pierce to the Presidency, with a democratic majority in each branch of Congress, to sustain him. The defeat of the whig party was overwhelming, and it has had no existence since. Upon the 4th of March, 1853, Mr. Pierce came into the Presidency, and in his inaugural address pledged himself to his countrymen that all the ability and talent, and power of his administration should be devoted to keeping down this slavery agitation. The gentleman from Des Moines asked us who are responsible for this agitation. Sir, they who are in power. They had both branches of Congress, and they had the President. The whigs were out of power, and the free soilers were too insignificant to effect anything by their votes. Their President, supposing they were acting in good faith, pledged himself that his administration should be devoted to keeping down the slavery agitation. I ask you then if the President who gave the pledge, and his party who were in power, are not responsible for the agitation which has since ensued. The country was quiet. The democracy were in full possession of the government. The people, in the simplicity of their hearts, supposed that we had reached a "finality," and that the vexed question of slavery was settled. They relied upon the pledges of the whig and democratic parties, endorsed by the assurance of President Pierce himself. Mistaken and deceived people of the free states! The lull in the public mind, was only the precursor of the storm that was to follow! The submission of the free north, only gave assurance to the foe of human rights, and stealthily that foe went to work to blacken the fertile prairies of Kansas with the curse of slavery.

Kansas and Nebraska were to be organized. The subject came into the Senate, and was referred to the Committee on Territories, of which Stephen A Douglas was chairman. That committee reported back the bill organizing those territories. It contained no provision by which slavery was to be benefitted. It removed no obstructions in the pathway of the black power. The Missouri Compromise was untouched. It did not please the South. While these things were going on, there happened to be a vacant seat in the Senate chamber. The member from Missouri, and the acting Vice President of the United States, instead of discharging his constitutional duties, was out upon the western borders of that State, organizing blue lodges for the purpose of carrying slavery into Kansas. David R. Atchison was absent from his seat when Mr. Douglas reported the bill organizing the territories of Kansas and Nebraska. Upon the motion of a southern senator, the bill was recommitted, and while it was in the hands of the committee the second time, Mr. Atchison came to Washington. He told his compeer, Mr. Douglas, "I have been upon the western borders of Missouri; I have organized blue lodges, which stand ready to carry slavery into Kansas. There is but a single thing in the way. There stands the Missouri compromise, a barrier higher than the stone wall of China, and absolutely impenetrable. We cannot take our negroes there until it is out of the way. Your interests as a partisan require the removal of that Missouri Compromise." The South prevailed. The cause of civil liberty was betrayed. In ten days after the bill was recommitted to Mr. Douglas, for the avowed purpose of carrying slavery into Kansas, he reported back the bill, with a clause repealing the Missouri compromise; repealing the very measure which Douglas himself had applauded, and of which he had said that there was no man so bold as to raise his arm to destroy it. And that was the beginning of this slavery agitation. A democratic Congress and a democratic President passed that bill into a law; and it is they who are responsible for this

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agitation and for all the consequences that have ensued or may ensue.

What was the next step? The southern politicians saw that the country was aroused. They saw and felt that the spirit of liberty in these free States, would never permit that our constitution and our government should be a mere machine for the purpose of extending and spreading this curse all over God's earth. The people of the free States rose simultaneously, in one mass, in condemnation of this act. Men who had stood by Andrew Jackson in all his bitter contests, who had been his right hand men, and warded off the blows that were aimed at him, rebelled against these measures. Such men as Francis P. Blair, whom the democrats used to think they would go to when they died; Preston King, Abijah Mann, and all the best men of the democratic party, threw off the manacles of party, and as one man arose in denunciation of this measure. The South were not idle. They saw there was but one way to save the advantage they had gained, and that was to throw the lash over the backs and the chains around the body of this so called democratic party, and they went to work to do it. The presidential election of 1856 was approaching. It was necessary to make this party change its position upon that subject, or else no chance remained for carrying out their policy. And how did they go to work to accomplish it? The mode is displayed in the resolutions adopted in the democratic conventions of the southern States, in which they gave the democracy distinctly to understand that they must put such and such planks into their platform; that they must take the responsibility of these measures upon their own shoulders, or the south would not go into convention and support the candidate of the democracy. Let me refer to the evidence. Here are the resolutions adopted by the democratic State of Alabama, in the democratic State convention to appoint delegates to the National Convention of 1856:

"*Resolved*, 8. That it is expedient that we should be represented in the Democratic National Convention upon such conditions as are herein expressed.

"9. That the delegates to the Democratic National Convention, to nominate a President and Vice-President, are hereby expressly instructed to insist that the said convention shall adopt a platform of principles as the basis of a national organization, prior to the nomination of candidates, unequivocally asserting, in substance, the following propositions: 1. The recognition and approval of the principle of non-intervention by Congress upon the subject of slavery in the territories. 2. That no restriction or prohibition of slavery in any territory shall hereafter be made in any act of Congress. 3. That no state shall be refused admission into the Union because of the existence of slavery therein. 4. The faithful execution and maintenance of the fugitive slave law.

"10. That if said National Convention shall refuse to adopt the propositions embraced in the preceding resolutions, our delegates to said convention are hereby positively instructed to withdraw therefrom."

Here was a reading of the law to Northern Democrats! Here was the lash held over their heads! Here was the threat to take from them all the spoils of office! Make a platform containing the principles, or our delegates will withdraw, and we will refuse to support your candidates!

The Democratic convention of Mississippi, to elect delegates to the same convention, passed the following resolutions:

"*Resolved*, 4. That our delegates to the next National Convention of the Democratic party, to be held for the purpose of nominating candidates for President and Vice President, are hereby instructed that they are to insist on the adoption by said convention of a platform of principles which shall contain—

"1. A recognition and adoption of the principles of the act of Congress commonly called the Kansas-Nebraska act.

"2. A pledge to resist all attempts to abolish slavery in the District of Columbia, o. to prohibit the slave trade between the states.

"3. A pledge to resist all attempts to repeal the fugitive slave bill, or impair its faithful execution."

The Democratic State Convention of Georgia adopted the following resolutions:

"*Resolved*, That we adopt as our own the following resolution, passed unanimously by the last legislature of Georgia:

"*Resolved by the General Assembly of the State of Georgia*, That the opposition to the principles of the Nebraska bill, in relation to the subject of slavery, is regarded by the people of Georgia as hostility to the people of the South, and that all persons who partake in such opposition are unfit to be recognised as component parts of any party or organization not hostile to the South.

"*Resolved*, That in accordance with the above resolution, whilst we are willing to act in party association with all sound and reliable men in every section of the Union, we are not willing to affiliate with any party that shall not recognise, approve, and carry out, the principles and provisions of the Nebraska-Kansas act; and that the Democratic party of Georgia will cut off all party connection with every man and party at the North or elsewhere that does not come up fully and fairly to this line of action."

These were the means adopted to dragoon the Northern Democracy into the support of these principles and measures The Democratic party of the North were g ven distinctly to understand that if they did not toe the mark; if they did not smother whatever sentiments of liberty might yet exist in their breats, there was no chance for office—there was no chance for success. And how many spurned the bribe?

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But I have still another witness. While the discussion upon this subject was going on in Congress, Mr. Keith, a d stinguished gentleman from South Carolina, announced publicly upon the floor of the House of Representatives the demand of the South upon the Democracy of the North' Here is his language:

"The democratic party at the north has been cut down in the fight. It has passed through fire and water. It has come out cleansed, with whitened garments. It is now strong enough to do battle for the constitution. Will you swell it, for the spoils, with a motley horde, wearing soiled and tattered robes? If you will, *give the platform to the South*, and the *man* to the North."

* * * * *

"The South should establish in the platform the principle, that the right of a Southern man to his slave is *equal* in its length and breadth to the right of the Northern man to his horse. She should make the recognition of the right full, complete, and indisputable."

The north might have the man. but the south meant to make the platform; or in other words, that the slaveholders of the south would dictate to the democracy of the whole country, upon what principles they must stand, in order to secure for their candidate the vote of the south. The convention assembled at Cincinnati, and as might have been expected, one of these slave-driving gentlemen was put at its head as Presiding officer. The southern States, having issued their instructions, a southern gentleman, for the purpose of seeing them enforced, takes the chair, and appoints a committee on resolutions to frame the democratic platform of 1856. If you will read that platform, you will see how completely the northern democrats submitted to that dictation—how subservient they were under the uplifted lash. Not a man in that convention dared to look back as far as 1848, and rebel. Here, for the first time in the history of the country, is announced, in any authoritative shape, the doctrine for which that party contended in the last canvass. After reaffirming the platform of 1852, which, as I have shown, affirmed the platform of 1848, they go a step further. Here is what they say in 1856, which includes, first, the resolutions before read:

"*Resolved*, That we reiterate, with a renewed energy of purpose, the well considered declarations of former conventions upon the sectional issue of domestic slavery, and concerning the reserved rights of the States—

"1. That Congress has no power under the Constitution to interfere with or control the domestic institutions of the several States, and that such States are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the constitution; that all efforts of the abolitionists, or others, made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions.

"2. That the foregoing proposition covers, and was intended to embrace, the whole subject of slavery agitation in Congress, and therefore the Democratic party of the Union, standing on this national platform, will abide by and adhere to a faithful execution of the acts known as the compromise measures, settled by the Congress of 1850, 'the act for reclaiming fugitives from service or labor' included; which act being designed to carry out an express provision of the constitution, cannot, with fidelity thereto, be repealed, or so changed as to destroy or impair its efficiency.

"3. That the Democratic party will resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be made.

"4. That the Democratic party will faithfully abide by and uphold the principles laid down in the Kentucky and Virginia resolutions of 1798, and in the report of Mr. Madison to the Virginia legislature in 1799; that it adopts these principles ps constituting one of the main foundations of its political creed, and is resolved to carry them out in their obvious meaning and import.

"And that we may more distinctly meet the issue on which a sectional party, subsisting exclusively on slavery agitation, now relies to test the fidelity of the people, north or south, to the constitution and the Union—

"1. *Resolved*, That, claiming fellowship with, and desiring the co-operation of, all who regard the preservation of the Union under the constitution as the paramount issue, and repudiating all sectional parties and platforms concerning domestic slavery, which seek to embroil the states and incite to treason and armed resistance to law in the territories, and whose avowed purposes, if consummated, must end in civil war and disunion—the American Democracy recognize and adopt the principles contained in the organic law establishing the territories of Kansas and Nebraska, as embodying the only sound and safe solution of the 'slavery question,' upon which the great national idea of the people of this whole country can repose in its determined conservatism of the Union—*non-interference by Congress with slavery in state or territory, or in the District of Columbia.*

"2. That this was the basis of the compromises of 1850—confirmed by both the democratic and whig parties in national conventions—ratified by the people in the election of 1852—and rightly applied in the organization of territories in 1854.

"3. That the uniform application of this democratic principle to the organization of territories, and to the admission of new States with or without domestic slavery, as they may elect

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—the equal rights of all the States will be preserved intact—the original compacts of the con titution maintained inviolate—and the perpetuity and expansion of this Union insured to its utmost capacity, of embr cing, in peace and harmony, every future American State that may be constituted or annexed, with a republican form of government.

"*Resolved*, That we recognize the right of the people of all the territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of these inhabitants justifies it, to form a constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

Now I call the attention of democrats upon this floor to this matter, and ask them to examine the records of their party from its first organization to the present time. Let them examine the speeches of every public man in their party, and they will find that not until the adoption of these resolutions by the democratic convention of 1856, was this doctrine of non-interference with slavery in the territories, even considered a part of the democratic creed. Here, for the first time, it becomes orthodox. And I think that I have shown that even at that time, it was inserted in the platform solely in obedience to the dictation of the southern portion of the democratic party.

We are told that the republican party is a sectional party. The gentleman from Marion, [Mr. Gibson,] reiterated that charge the other night. I beg leave to ask him how we are to determine the character of a party—whether it is sectional or national? Must we look to the men who are members of that party, or to the platform of principles by which the party is to be governed, and upon which it stands? I say to that gentleman, and to every other democrat upon this floor, that if they will go with me and examine the democratic platform they will find that it is a sectional platform, and none other. I ask gentlemen to point me to a single principle in that platform, the object of which is to promote the interests of the free States. It cannot be found. The whole series of resolutions, from beginning to end, have reference almost solely and completely to this question of slavery. Gentlemen here talk about the "nigger in the wood pile." If there ever was one anywhere he is to be found among the planks of this democratic platform. It is a sectional platform, and nothing else.

And now, Mr. Chairman, we come to the doctrine of squatter sovereignty, and which has been alluded to by the gentleman from Des Moines, [Mr. Hall,] This doctrine was first promulged by Lewis Cass, in his Nicholson letter. It is as plausible on its face, as it is sophistical in its character; and after the passage of the Kansas-Nebraska bill, was regarded as the doctrine of the modern democracy. The people of the north were deluded by this dogma. The argument, that the people who settled in the territories, should have the right to give character to the institutions of the territory, and that the people of Iowa and New York should not be permitted, and had no right, to meddle in the matter, seemed plausible; and the democratic party hoped to stand upon that ground. But the south was not content with this. The south were not willing to risk themselves and their property upon such a foundation. They did not feel safe. It would not carry the local laws of the slave states into the territories, and without these local laws, slavery could not exist there. Nor was this all. The south began to see, that all the force and violence resorted to, to prevent the free men of the north from going into Kansas, had failed to produce the desired effect; that in spite of all their efforts, the northern men were determined to go and settle there; and that when the question came to be presented the north would out-vote the south. A other advance step must be taken. The much lauded dogma of popular sovereignty must give way, and the democratic party be driven to deny and disown the very doctrine they had used to sustain the Kansas act. Squatter sovereignty must be hauled down, and the novel doctrine of State Equality, which converts this government into a mere organization for the extension of slavery—which opens every territory to the curse and blight of slavery, and which gives the slave-holder the same right to take his slaves into Kansas, and hold them there, that it does an Iowa farmer to take and hold his stock—hereafter emblazoned on the banners of democracy. To this end, the Richmond *Enquirer*, the leading paper of the south, and whose democratic orthodoxy, I suppose, will not be questioned by any one, on the 28th of April, 1856, opened out on squatter sovereignty as follows:

"THE CINCINNATI CONVENTION.—An entirely new issue will be presented in the approaching Presidential canvass—an issue which it is impossible to avoid or evade. The opposition is essentially an abolition party. It proposes to repeal the Kansas-Nebraska act, and the fugitive slave law. It thereby denies state equality. The Democracy oppose the repeal of those laws, and *seem* thereby to maintain state equality. But all room for doubt or cavil must be removed. We must, in the Cincinnati platform repudiate Squatter Sovereignty, and expressly assert State Equality. We must declare that it is the duty of the general government to see that no invidious or injurious distinctions are made between the *people* or the *property* of different sections, in the territories. It may be that the assertion in the platform of the abstract proposition of State Equality may suffice to carry along with it the consequences which we desire. But is is often charged that the Kansas-Nebraska bill contains the doctrine of Squatter Sovereignty, and that Squatter Sovereignty is the most efficient agent of free-soilism. Some Northern Democrats have maintained this ground. Now this gun must be spiked."

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Yes, sir, here was the order. *This gun of squatter sovereignty must be spiked.* The party must take another step in advance, and assert the doctrine that no power short of the people themselves, when they come to form a state constitution, could interfere with this question of slavery. And in obedience to this order of the Richmond Enquirer, the resolutions which I have read were passed, and the party fell into the lock-step, marched up to the gun and spiked it. I now ask gentlemen here if the south did not make this platform? and whether my second proposition, that it changed its position at the dictation of the south, is not sustained?

But before I proceed to my third proposition, I have another little question that I desire to settle with the gentleman from Des Moines, [Mr. Hall] It is in reference to the newspaper called the "New York Day Book." When that paper was cited by the gentleman from Lucas, [Mr. Edwards,] as Democratic authority, the gentleman from Des Moines sought to disclaim it, and said the Democratic party were not responsible for the doctrines taught by that paper. I would ask that gentleman and his associates here, if they do not know that the Democratic Central Committee at Washington—the men who managed this past political campaign, published a circular recommending the New York Day Book as a genuine Democratic paper, to the support of the Democracy of the country? I ask them whether the Democrats of Congress did not issue a circular recommending that paper to the support of the Democracy of the country; and whether Augustus Hall, the brother of the gentleman from Des Moines, did not sign that circular? I ask the gentleman from Marion, [Mr. Gibson,] if a certain Democratic judge of this state did not send for a number of extra copies of that paper for circulation in this state? Now I assert this as a fact that is beyond contradiction; and that the Democratic Central Committee at Washington circulated that paper by thousands all over the free states.

I desire, at this time, Mr. Chairman, to read the doctrine this paper teaches, in order that the Democrats of this state, when they have these debates put into their hands by my friends from Wapello and Marion, [Messrs. Gillaspy and Gibson,] may read the sentiments of this paper which is called Democratic and orthodox. It was endorsed by the "Reporter," of this city, the Democratic organ of this state, during the late canvass, which spoke thus of the paper:

"The *New York Day Book*.—This able Democratic paper is probably the only simon-pure exponent of old line Democracy published in the metropolis."

Now, let us see what this simon-pure Democratic paper has to say in reference to the Democratic party being pro-slavery:

"We hold 'negro slavery' to be right, right *per se*, right in itself, in the nature and necessity of things, and while there are defects and imperfections in detail, as in everything else, and in all human institutions, there are perhaps no more evils connected with southern society than that at the north. And in our frequent articles on this particular phase of the mighty questions now upon us, and before the people for their action, we have said that the northern Democracy, when the question should be presented to them, would be in favor of the free expansion of southern population, or, as the dupes of imposture would term it, the 'extension of slavery.'"

Now, the gentleman from Des Moines, [Mr. Hall,] and the gentleman from Marion, [Mr. Gibson,] say that Democracy has no sympathy with slavery—that it is opposed to the extension of slavery. But this Democratic paper does not seem to entertain the same opinion.

Again, the Day Book speaking of the Cincinnati platform, says:

"Shall the Democratic party fear this issue, to oppose the extension of slavery? No, indeed! a thousand, a million times, no; *there is not a single Democrat in the whole north opposed to the extension of southern society, or so called extension of 'slavery';* and they only want to have the truth spoken out and things called by their right names, to sweep the abolition imposture from the republic, and to bury its besotted fools in the profoundest depths—the lowest possible depth in the public contempt."

But this paper is consistent with itself. It goes a step farther than the democracy have yet gone, and foreshadows what is to be the next step in their progress. This paper argues that slavery ought not necessarily to be confined to the black race, but that the children of poor white people, who are unable to take care of them, should be sold to slavery. It boldly advocated this doctrine during the last campaign, and no northern doughface dared to raise his voice in opposition to this horrible doctrine. It boldly avowed that this thing of white slavery was just as right as black slavery, and there came up no protest from the democratic party. Now, gentlemen may whine about the democratic party not being responsible for the language or declarations of this Day Book. But I have another authority for the doctrines that paper advocates. The Chillicothe Advertiser says *that there is no quarrel between the northern and southern wings of the democracy upon this subject of northern slavery*, but the most cordial concert. If that is true, is it not because the principles of the south have been adopted by northern democrats? Does not every man know that during the last campaign, their northern papers openly avowed the doctrine that their system of society was better than ours; that this thing called "free society," was a *humbug?* Did not they openly avow that this beautiful and noble system of ours, to which has elevated the free states to the height of prosperity, and thus has excited the ire and envy of the southern people, was a humbug? And did not they openly boast that it should be taken from us? Yet in the face of all their declarations, and all this language, there has been no modern democrat who has dared to

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enter protest against either the one or the other.

I come now to my third proposition, that the sole object and purpose of the democratic party is the extension and perpetuation of slavery. I might be content to rest the proof of this proposition upon the doctrines avowed in the democratic platform and upon the action of the democratic convention which adopted that platform. I did in the campaign which has just closed, as I do now, defy any democrat to point out to me a single plank in that platform which is calculated or designed to promote the interests of the free states. There is but a single plank there that points to any such thing, and that is the plank in relation to the Pacific rail road, and every man knows how that came to be adopted. Every man knows that when the proposition was first made in the democratic national convention, it was hooted down by the southern members. The south are hostile to any such measure, at least unless it is secured to them.

But when the delegates from California appealed to them, and told them that without it, California would be lost to the democratic party they put in a milk-and-water resolution. If any man doubts that and the opposition of the southern wing of the party to this great measure, let him go to the proceedings of Congress, and there he will see the votes of the democracy to defeat the Pacific rail road bill, now pending before Congress.

As I have said before, and I repeat it now, the object and purpose of the repeal of the Missouri compromise was to extend slavery. Mr. Atchison so understood it; and the whole southern people so understood it; and that is the merit now claimed for the measure by the entire people of the south. That is the reason why the people of the south rallied as one man to the support of James Buchanan and his party. There was a time when the democracy would have shrank from the contamination of any association with the whigs; when they would have shuddered at the idea of associating with the know-nothings. And yet who does not know that the repeal of the Missouri compromise has been the means of overcoming everything like party distinctio in the south, and that in the southern States there is but one party, and that the pro-slavery party, and as such it went almost to a man in favor of James Buchanan?

But I desire to point out to northern democrats here, not only that the repeal of the Missouri compromise did open to slavery all the territories of the United States, but that that was the object sought to be attained, and that there was no other object in view. I beg leave to turn again to the Richmond *Enquirer*, the organ of the democracy of the south; a paper that wields more influence than any other paper in the southern states. What did that paper say during the late campaign, in reference to this measure? In an article in that paper of date September 12, 1856, I find the following:

"Luckily for the satisfaction, or the confusion, of such individuals as Mr. John Minor Botts, the Kansas-Nebraska act is not destitute of immediate, visible and tangible advantages to the south. The repeal of the Missouri compromise, besides offering atonement and reparation for an affront upon the south, opens the federal domain to the free expansion and development of negro slavery."

And again:

"The abolitionists have ever had control of a majority of the popular vote. They now hold indisputable ascendency in the House of Representatives. In the Senate, even, the South is in a minority of one State; though fortunately a conservative sentiment is still supreme in that branch of the federal legislature. The day is not distant, however, when the sixteen free States will be represented in the Senate by the political associates of Seward and Wilson; and when Congress will be under the absolute sway of abolitionism. The south may turn to the executive, but with scarcely a stronger hope of protection. Fremont may not be elected, but the triumph of his party will be postponed only for a single term; unless, meanwhile, the south recovers its power in the confederacy, and establishes a counterpoise to the ascendency of abolitionism."

This paper seems to have had a prophetic vision; it says that "Fremont may not be elected, but the triumph of his party will be postponed only for a single term, unless" the south in the meanwhile recovers its former power in the confederacy. And how does it propose to regain this ascendency? This is what it says:

"How can the south possess itself of this self-protecting power? How recover its ascendency in the Senate? Oregon, Washington, Minnesota and Nebraska, all free States in embryo, will counter-balance the accession to the south by the division of Texas, even though the north should observe its obligation under the treaty of annexation. Utah and New Mexico will in all probability send four anti-slavery votes to the Senate. So much on one side.

"The only present chance of accession to the strength of the south, is the admission of Kansas into the Union with a pro-slavery constitution. In two years, at the furthest, that territory will assume the sovereignty of a State, and in all probability will adopt the institutions of the south. Then the south will recover its equality in the senate, and will be competent to the protection of its rights. Though incapable of directing the policy of the government to the end of slavery propagandism, (which the south desires only for the purposes of self-defense,) it will be fully equal to the defeat of measures of free soil aggression. With Kansas to back it in the Senate, the south can compel the fulfillment of the Texas treaty, by resisting the admission of other free States. With Kansas to back it in the Senate, the south can stay the march of abolitionism, and maintain its own rights and independence for an indefinite period.

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"But Kansas would have been a free State if the Missouri restriction had not been repealed; and instead of augmenting the power of the south, would have recruited the ranks of abolitionism."

So, it seems, that the democracy did not design merely to let slavery into Kansas; they had political motives at heart; they designed to restore the equilibrium of the south in the Senate, and place Kansas there with her slave Senators, and then—as this paper says—to resist the admission of any more free States.

That was the purpose; that was the object. And I have no doubt that Stephen A. Douglas, when he introduced the provision repealing the Missouri Compromise, representing not the people of Illinois, but his plantation and slaves in Mississippi, had in view his own interests, and those of the other four hundred thousand slave holders in the country, and designed to give them the power and ability to control the federal government. And against this, northern democrats have not a word of protest to utter. This is what was intended by the repeal of the Missouri Compromise. It was to perpetuate and extend slavery into Kansas; and by making Kansas a slave State, with a slavery representation in Washington, to resist the admission of any more free States. That was perfectly understood. Upon this point, I beg leave to refer to a certain Major Buford, who obtained some distinction last summer by conducting a body of armed men into Kansas, in which patriotic object it seems he bankrupted himself. While in the midst of his campaign there, he issued a proclamation calling for help, in which he avowed this doctrine. The south understood it, and if the democracy of he north do not understand it, then they must be dupes. Here is what Buford says:

"Herewith you will find the appeal of some friends in Kansas, together with a letter accrediting me as their agent to solicit your aid in maintaining that indispensable breakwater to the angry tide of abolition. Want of time forbids me calling on many of you personally.—Read that address thoughtfully; consider that if Kansas, our natural boundary to the northwest, is lost, that then Missouri, and all west of the Mississippi, nay, too, all east of it, must soon follow, while, if we maintain it, the territories west of Arkansas and Texas are safe to us, nay, the future is safe."

If the south can maintain slavery in Kansas, slavery is safe for all the other territories west of it; and as Major Buford says, safe for all future time, and the south will thus have the control of the destinies of this government, and of its people.

But let us look at this subject in another light. There is in this democratic platform a resolution that points beyond the territory of this country; that points to the island of Cuba. We find that the democracy are even now committed to the doctrine put forth by James Buchanan, that if we cannot buy Cuba, we must steal it. Cuba is to be acquired at every hazard, and that for the benefit of slavery. To this policy, Mr. Buchanan is fully committed. Here is my witness. Mr. A. G. Brown, United States Senator from Mississippi, in his letter, giving an account of his reception from Mr. Buchanan, when he went to inform him of his nomination for the presidency, says:

"WASHINGTON CITY,
Wednesday, June 18, 1856.

"MY DEAR SIR: I congratulate you on the nomination of your favorite candidate for the Presidency.

"If the nomination of Mr. Buchanan was acceptable to me at first, it is still more so now, since I have seen him and heard him speak. The committee, of which I was one, waited on him at his residence to give him formal and official notice of his nomination, and, in the name of the National Democracy, to request his acceptance of it. We found him open, frank, and wholly undisguised in the expression of his sentiments. Mr. Buchanan said, in the presence of all who had assembled—and they were from the North and the South, the East and the West—that he stood upon the Cincinnati platform, and indorsed every part of it. *He was explicit in his remarks on its slavery features*, saying that the slavery issue was the absorbing element in the canvass. * * * * *

"After thus speaking of Kansas and the slavery issues, Mr. Buchanan passed to our foreign policy. He approved, in general terms, of the Cincinnati resolutions on this subject. But said that while enforcing our own policy, we must at all times scrupulously regard the just rights and proper policy of other nations. He was not opposed to territorial extension. All our acquisitions had been fairly and honorably made. Our necessities might require us to make other acquisitions. He regarded the acquisition of Cuba as very desirable now, and it was likely to become a national necessity.

* * * * *

"After the formal interview was over, Mr. Buchanan said, playfully, but in the presence of the whole audience, 'If I can be instrumental in settling the slavery question upon the terms I have named, and then add Cuba to the Union, I shall, if President, be willing to give up the ghost, and let Breckinridge take the government.' Could there be a more noble ambition? * * * * In my judgment, he is as worthy of Southern confidence and Southern votes as Mr. Calhoun ever was." * *

This letter was addressed to the Hon. S. R. Adams, the other senator from Mississippi. Let Northern Democrats mark well this letter. Aye, sir, if this Democratic party can only settle this thing called slavery in the national territories; if they can only put the South in a position to resist the admission of any more free States; if they can only tie hand and foot the people of the free States, then Mr. Buchanan will have nothing on his hands, and he can turn his at-

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tention to the acquisition of Cuba, upon the principles of the Ostend manifesto. For what? Whether to make that beautiful island the home of freemen, or to extend further this system of slavery, I leave to Northern Democrats to determine.

Now, let us look a little further into this matter. I want to show what has been the position of the Democratic party in relation to the acquisition of territory. In all these conflicts concerning the acquisition of territory—in the case of Texas and of Mexico—we have always found the Democracy arrayed on the side of extension. They have always been upon the side designed to favor the slave States, by the extension of slavery. They have never once stood up for the extension of free territory. I have in my mind a famous historical fact, which Northern Democrats seem to have forgotten. I remember that James K. Polk came into the Presidency upon the platform of "fifty-four forty or fight," in relation to Oregon. But that was Northern territory; it could not be useful to slavery extension; slavery could not go into Oregon. And Thomas H. Benton, of Missouri, knocked the breath out of "fifty-four forty or fight;" and the Northern Democracy yielded, and came down to "forty-nine," because the South, with Thomas H. Benton at their head, demanded it. They were not so anxious to extend the area of freedom then. But when it comes to Southern territory, these gentlemen are not allowed by their masters to yield an inch.

There is another region of country about which there has been something said; I allude to Canada. If the people of Canada and the people of the free states should unite in asking that that country should be annexed to the United States, I ask where Northern Democrats would stand? Why, I ought not to ask that question. They are not allowed to answer; they are not permitted to take a position; they did not make the platform upon which they stand. The South treats them as she does her slaves, and they obey her quite as submissively. I should go to their masters and ask them: Democrats of the South, are you willing to annex Canada to the United States? And I predict that if that question is ever asked, every man of them will be found as firmly opposed to it as they are now in favor of the extension of slavery in the territories we now possess.

There is no honesty, there is no fairness, in the conduct of the Democratic party in reference to this matter, and it but goes to prove the fact, that the whole object and purpose of those Southern task-masters, with whom Northern Democrats are combined, is to extend and perpetuate the institution of human slavery.

Now, in view of these facts, I ask, what becomes of the declaration of the gentleman from Des Moines [Mr. Hall], that the Democratic party is a national party? I ask, in what single particular is it a national party, where is any evidence found of that in its declaration or its act? I say it cannot be produced. No man can point me to a single thing that it has ever done calculated to promote the interests of the free states. It does not now avow a single principle of that kind.

There might be much more said upon this subject. There is a mass of testimony which is perfectly overwhelming. But I have now gone over the ground I had marked out. I have aimed to put upon the record of this convention evidence that I at least think is irrefragable, showing the position, aim and scope of this Democratic party for the last ten years. And if that evidence does not establish to the satisfaction of the people of this state, the fact that that party has completely reversed its position; that, so far from being a national party, it is a sectional party; that its sole object and purpose is the extension of slavery, and the strengthening of that institution, not only in the states, but in the national government, then I am mistaken in the force of human language, or the power of comprehension possessed by the people of this state.

Having done this, Mr. Chairman, I do not propose to enter into any discussion as to the merits of the Republican party. The gentleman from Des Moines [Mr. Hall] and the gentleman from Marion [Mr. Gibson] may utter their sarcasms against it. They may tell us that it is a new party—not weaned yet, to use their own expression. We admit that it is a new party; but the history of the world establishes the fact, that a new party is always an honest party, and always influenced by patriotic motives.

Such I believe the Republican party to be, and such I trust it will always remain. It is composed of the best men of all parties—men attached to the principles of the fathers—men who love liberty more than slavery—and who possess a power that sarcasm cannot disarm, and before whom passion and prejudice stand abashed. And, sir, if Democrats upon this floor could have seen these men, as I saw them, at the Pittsburg Convention, a little over one year ago, even their hearts might have been warmed with admiration, and a desire to uphold and maintain in their purity the institutions of their fathers. But they do not, and will not, see the movement of the people. They close their eyes to the truth, that the world does move on—that the great doctrine of human rights is advancing; and hope by their miserable sarcasms against the Republican party, and their wilful misrepresentations of its principles, to be able to destroy that party. But, despite all their efforts, our cause advances, and the Republican party, within a year, has effected more for civil liberty, than was accomplished in years before. The opposition may oppose it; they may scorn it; but the seed is sown, and the prediction of the Richmond Enquirer will yet be realized. Our late defeat is but a postponement of our triumph; and four years hence, the people will rise in their might and place in power those who

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love liberty more than slavery—their country more than party.

Mr. HARRIS. I do not rise for the purpose of making a speech, for the simple reason that I believe I have heard the arguments presented by t e gentleman from Johnson, [Mr. Clarke,] this afternoon, answered before the election took place. There is nothing new in them. And not only that, I heard the gentleman advocate the self-same sentiments some eight years ago, when the majority of those who are associated with him here now, took positions entirely different from those he now takes.

But I rise for the purpose of asking the gentleman a question that I would like to have answered to my satisfaction here. He seems to think, or to assume, that the democratic party all over the country have taken the position in favor of extending the institution of slavery; but *vice versa*, of course, in regard to the position of his party. I want to know why it was, in regard to the bill before Congress, providing for the admission of Minnesota as a state into the Union, such men as Lewis D. Campbell of Ohio, and others of that stamp, voted against it, and Howell Cobb, of Georgia, and others of that stamp, voted for it? Such is the fact, as gentlemen must know if they are in the habit of consulting the columns of the New York Tribune.

And there is another thing. The gentleman seems to take a great deal of pride in the fact that his party has no history. And he claims that, as a matter of course, it is an honest party because it has no history before the country. I want to know if we are to take as evidence of the honesty of that party, the investigation and controversy now going on between the several Kansas aid committees, where they are charging each other with peculation, fraud and corruption in the contributions which they have obtained all over the country upon the plea, that they are to be used to aid poor, bleeding Kansas? Gentlemen here know that this controversy is going on; that one man at the head of this committee is charged with squandering some thirteen thousand dollars of the fund raised to assist the poor in Kansas.

Now are these things to be considered as evidences of the honesty of that party that the gentleman presents to us here for our commendation? The matters of which I have spoken here are matters of history.

So far as the discussion about the New York Day Book is concerned, I have only to say that I have heard these charges before. I suppose I am as conversant with the history of the democratic party, as is the gentleman from Johnson. And will gentlemen come here, and in face of the votes given in this convention, and before the members here, assert that the democratic party of the north are in favor of the extension of slavery and nothing else? We have certainly had an opportunity here to define our position before the country, and I undertake to say that if there is a fact that is plainly and unmistakably developed to the understanding of every man, who is willing to take history as it is, and to treat facts fairly, and as they really exist, it is that the democratic party as a party, have not sought or desired the extension of slavery.

Gentlemen say here that there is but one party at the south, and that they are united to a man in favor of this extension, and that they were unanimously in favor of the nominee of the democratic convention. Now it is notorious that the Louisville Journal, as soon as the nomination of Mr. Buchanan was made, arrainged it as having been secured by the abolitionists of the north, and fought it to the bitter end.

Now the fact is, that the democratic party has not committed itself either to the abolitionists of the north, or the slavery propagandists of the south, and that is the head and front of their offending.

The history of these matters are before the country, and especially the history of the action of the republican party in Congress, of which I have spoken, and I think that is sufficient to indicate what is the truth of the case in regard to this question.

I am ready to vote upon this resolution and do not wish to take up any farther time of the convention upon it. I would ask if an amendment to this resolution would be in order?

The CHAIRMAN. It is open to amendment.

Mr. HARRIS. I have an amendment by way of substitute for this resolution, that I desire to offer.

The CHAIRMAN. It would not be in order to offer a substitute for this resolution at this time, there being an amendment to it pending, wh.ch must first be disposed of.

Mr. ELLS. I do not propose, Mr. Chairman, to occupy the time of this convention by an elaborate argument in favor of human rights, the freedom of speech, or the freedom of the press. But I do desire, since we are speaking to the book, to s y a few words for the benefit of the constituents of the gentleman from Wapello, [Mr. Gillaspy,] and to read a few passages from an old document. If I am to judge of the constituents of the gentleman by the arguments and assertions made by him here, at different times, it may be well if the book of debates and proceedings we make here shall contain some old doctrines for their benefit; for I apprehend, if he represents them correctly, they are not very well posted in the old history of the party to which he claims to belong, and the history of the country under which he has enjoyed so much liberty.

That gentleman has thanked God that he was a white man; he has thanked God that his constituents were white and had white children; and he says he does not wish to have them educated alongside of black children. It is well to be thankful to God for the blessings we enjoy; but I apprehend that if the gentleman wishes to return his thanks to the author of his imp.aca-

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ble and bitter prejudices against color, he should be thankful to the prince of darkness, for he, rather than his Maker, was the author of that feeling. (Laughter.)

Now, sir, let us look at the foot-prints of our forefathers, and see if they have not left some record by which we can guide our course in the administration of public affairs; some guide for us while we are preparing a work here for posterity to read and learn from. I therefore propose to read a part of an old document for the benefit of the gentleman from Wapello, and some other gentlemen here, who, according to their arguments, must represent constituencies who have not read this old document. It purports to have been brought into existence about the year 1776—a long time ago—so long a time, I apprehend, according to the recollection of modern Democracy, as to have become almost obsolete. It reads thus:

"We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happinees."

These are the doctrines of the old fathers; the footprints they have left behind them by which we can trace the progress made by these noble and good men. That was in 1776.

We will now come down to 1787, when that same class of good men assembled together for the purpose of forming an organic law for the nation, as we are now trying to form an organic law for our State. What do they say?

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves, and our posterity, do ordain and establish this Constitution for the United States of America."

That is what they desired to do; that is what they met to do; and it is no wonder they intended to do it, because they have declared the broad principles upon which they organized themselves as a nation. But like other men, they did not see all the dangers that lay in their way. And accordingly after a few years they discovered that they had not sufficiently guarded the rights of man in every respect. They then amended this constitution; and what did they say?

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

And again; I want to show you how jealous they were of their rights, and how careful they were to guard them:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war, or public danger; nor shall any person be subject for the same offence, to be put twice in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Does that look like a class of men, who would have enacted that infamous fugitive slave law? Again:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

"In suits at common law, when the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by jury shall be otherwise re-examined in any court of the United States, than according to the rules of common law."

I refer to these provisions to show how jealous were these men of their rights; not because they are anything new or unheard of. I want them to go into the book, and be read by the constituents of that gentleman, who thanks God that he is a white man. Again, in article four, section two, I find the following:

"The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

This is one of the most important clauses in the whole constitution. It means simply that a citizen of Iowa, when he goes to the State of Louisiana, shall there enjoy, as a citizen of Iowa, the rights and privileges of a citizen of Louisiana, the right of free speech and free thought, the right of locomotion, all belong to him there. And so far as this constitution is concerned he is just as completely guarded and protected as if he were in his own State of Iowa.

The gentleman from Des Moines, [Mr. Hall,] seems to have become alarmed at the thunder of the gentleman from Johnson, [Mr. Clarke,] and retreated from his seat in time to save himself. I am sorry that he is not here, that I might ask him a question; but I will ask any other gentleman, who will answer for him, what rights I have south of Mason & Dixon's line if I write or speak one word against the institution of slavery? Can I go there and enjoy free speech? I may enjoy free thought, if I do not think aloud. But can I there enjoy the liberty I enjoy here, of speaking honestly against the worst institution that God ever permitted man to inflict upon his fellow man? No, sir; I cannot do that. The union formed by my forefathers is not a union

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for me, if I attempt to say one word against this accursed system of human slavery. Then the assertion of the gentleman from Des Moines, [Mr. Hall,] that wherever the flag of this Union may wave, man can enjoy all the privileges of citizenship, is a lie, so far as I am concerned. I can use no term in regard to it other than it is a lie, because I have tried it myself and know what it means.

I would ask the gentleman from Des Moines, if he is conversant with the history of his own country in relation to this slavery agitation? I would call the attention of gentlemen to a fact that happened as early as the year 1835, (and the same, in substance, has frequently occurred since,) to show that there is no true liberty south of Mason & Dixon's line. A friend of mine, by the name of Mr. Amos Dresser, a minister of the gospel. and, at that time, a colonizationist, went to the south as the agent of the American Bible Society, and took with him a lot of Bibles put up in New York. He opened his stock of goods in Nashville, Tennessee, and there distributed a few of his Bibles. Some person discovered that the paper wrapped around the Bible he had obtained was a copy of the "Emancipator," a newspaper then published in New York; and, upon the strength of that alone, Mr. Dresser was arrested, taken before the most distinguished and influential citizens of Nashville, and there examined. He was asked if he was an abolitionist. He said he was not; that he was a colonizationist; that he had never been in an abolitionist meeting in his life. Yet, because of this paper that they found around that Bible, they condemned him to receive fifty lashes upon his bare back. He was taken out, stripped, and tied to a whipping post, then, as now, in use in that city, and the lashes inflicted upon his bare back until the blood trickled down to his feet; and then, only through the instrumentality of friends, did Mr. Dresser escape from that city with his life—escaped under a false name from that land which the gentleman from Des Moines says is a land where a man, under the flag of his country, can enjoy the privileges of liberty. I refer to this matter, which is known all over the country, to show that the state of Tennessee is not only a place where a man cannot enjoy liberty, but a place where, for no offense or crime, his back was scored with the same lash that is used upon the naked body of the poor slave. This, sir, is only the legitimate fruits of that "peculiar institution," which the gentleman's friends are moving earth and hell to extend over the free territories of these United States.

I refer to these matters in order to show gentlemen, when they arraign me for having left the Democratic party, and gone off upon a false issue, that I have only gone from them in order to sustain myself in the enjoyment of those rights which God has given me, as a man, and the equal of every other man.

But, Mr. Chairman, this is not the only instance in which the leaders of that party endeavored to carry out their policy of dictating to their followers what they should think, say, and do, as party men. I can refer gentlemen to the history of the Democratic party of Ohio, where I had the honor, or rather the dishonor, of being a member of that party. I was a member of the Democratic convention that assembled at Columbus in 1840, for the purpose of effecting the nomination of Martin Van Buren for the Presidency of the United States. In order to conciliate the South at that time, the Hon. Thomas L. Hamer, chairman of that convention, had been for several weeks preparing a set of resolutions to be adopted by that convention, and circulated at the South, in order to secure the support of the South for Van Buren Most of you will recollect that in the constitutional convention of New York, in 1821, Van Buren had voted to give the colored man the right of suffrage; and that act was, of course, regarded as a crying sin. It was therefore necessary for the Democratic leaders to whitewash over, in some way, this, the brightest spot in the history of Van Buren; and in order to do it, this Thomas L. Hamer prepared a set of resolutions, in one of which it was declared that the Abolitionists were old black-hearted Federalists in disguise; and in another, that no member of that party belonged to the Democratic party—both of which declarations were utterly false.

I had lived in Virginia in my boyhood, and had seen slavery in its mildest forms; and having seen it, I know what it is. I say this to show that my feelings in early boyhood were opposed to slavery. I had witnessed its blighting influence upon the people. I had seen poor white men much more degraded than the body servants of gentlemen. I had seen enough to teach me, as a boy, that the institution was an infamous one—that it was degrading to human nature. And when I came to Ohio, I came there with the same feelings, and the same instincts, against this accursed institution. Again: I had more than the sight of it to make me hate it. I had learned my political lessons from the history of one of the best and greatest men that God has ever made—I mean when you combine his greatness with his goodness—Thomas Jefferson. I had learned my political creed from the writings of that great man. I had there learned that the doctrine of "the greatest good to the greatest number" was the only right rule of action for any man, either as a moralist or as a politician. I had learned there, too, that he defined the word "Democracy" to mean, equal and exact justice to all men. I had learned in the writings of that great man—that great apostle of liberty—that he looked upon slavery as the greatest evil there was in this country. In his letter to Governor Dunlap, of Illinois, when the Governor wrote to him asking him to use his influence to introduce some system by which slavery might be removed from the country, he replied in substance as follows:

"The time, my dear Governor, for the accomplishment of that desirable object, by us old rev-

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olutionists, has gone by. Our mistake was, in not extending the doctrines of the Declaration of Independence to all classes of persons in the country. In that hour, when mutual peril begot mutual confidence, we could have done these unfortunate persons a portion of that justice which is rightfully their due; but it is now too late—our influence has gone with the times that created it. It is for the young men of this country to take up this subject, and do that for posterity which we, unfortunately for our country, failed to perform. And, sir, judging from your letter, I think you are one of those young men that are just fitted to grapple with this monster evil, and effectually provide for its overthrow."

But Mr. Jefferson did not stop there. In his "Notes on Virginia," when he reviewed the history of the country, when he witnessed the effects of slavery upon the white classes, he trembled, he said, for his country, when he remembered that God was just, and that his justice could not sleep forever; and that a turn in the wheel of fortune might bring the master to the feet of the slave. And yet we have seen men, claiming to be disciples of this great and good man, standing up here and thanking God that they were white men, and that their children were white.

I indulge in these remarks, Mr. Chairman, in justification of the course I have been compelled to take, in departing from what is called the democratic party; and in justification of the course I have seen proper to take in this convention. I have here uniformly voted for the largest liberty to the largest number of mankind, so far as we are called upon to act for them. In voting here, I have voted according to the dictates of my conscience, because I wish to leave in the constitution we are here framing, an impression that shall stamp it as one of the progressive and onward movements of the nineteenth century. I want it to stand out clear and independent, as something in advance of anything else that has been established in days gone by, so that upon examination it will be found that we have made progress in the right direction.

If this shall be the result, I shall feel myself thankful to the republican party of this convention, that they have had the back-bone, as well good sense, to stand up here and advocate these principles, and leave upon record the evidence of their sincerity. And I believe, sir, with the adoption of such principles, when this constitution goes forth to the people of Iowa, it will become the most popular doctrine that has ever been advocated in this State, and it will do honor to the party that brought it into being.

I would like to say to the gentleman from Des Moines, [Mr. Hall,] that he has redeemed himself in my estimation by a single vote cast by him in favor of securing the blessings of education to all the children of the State, regardless of their color.

Not feeling, Mr. Chairman, willing to occupy the time of the convention any longer, I will conclude by making a single remark more. I wish to say that I have listened, with great pleasure, to the very able speech made by my friend from Johnson, [Mr. Clarke,] and I take pleasure in calling him a friend and brother, in the great work of humanity. He and his republican friends have differed about several matters, during the progress of our discussions here; but I feel that what he has done to-day has been sufficient to roll the wave of oblivion over every thing that has passed since the commencement of the session, so far as difference of opinion has taken place between himself and the republican party. I am glad that he stands upon a platform so high; and I rejoice that he has placed upon record such an able argument, vindicating the consistency of the republican party, and showing up so admirably the inconsistency of the democratic party from 1840 down to the present time.

Having already detained the convention too long, I fear, I will now resume my seat.

Mr. PETERS. I move that the committee rise, report progress, and ask leave to sit again at 7 o'clock this evening.

Mr. GIBSON. I wish to make a suggestion; and I would ask the gentleman from Delaware to withdraw his motion for a moment.

Mr. PETERS. I will withdraw it.

Mr. GIBSON. It was announced here this morning that it was absolutely necessary for some gentlemen to disgorge themselves of the speeches, which they have had in soak for a week past. To use the language of the gentleman from Warren [Mr. Todhunter], they were big with speeches, of which they wished to be delivered. I wish to suggest that if there are other gentlemen here who are in the same predicament, and who have speeches of which they desire to be delivered, that we meet here at 7 o'clock this evening; and for one, I am willing to stay here and listen to them till 11 o'clock, if it be necessary. Nothing, certainly, can be more gratifying to me than to see persons enjoy themselves; and if this would be any enjoyment to them, I have no objection to meeting here at that time.

Mr. SCOTT. I hope the amendment will not prevail, as I understand the gentleman from Marion [Mr. Gibson] is big with a speech.

Mr. BUNKER. I hope the debate will not be stopped here, as I wish myself to take particular care to nurse, dress up, and put in proper form, the delivery with which the gentleman from Marion [Mr. Gibson] favored us a few evenings since. [Laughter.]

Mr. PETERS. I renew my motion that the committee rise.

Mr. HARRIS. I have no objection to gentlemen being witty, if they desire to be so; but I have been unable to enjoy the sport in which some gentlemen seem to indulge. As we have been debating this question, I hope the committee will rise and ask leave to sit again.

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The CHAIRMAN. I wish to say that the committee have no right to determine whether we shall have an evening session or not.

Mr. HARRIS. I would certainly like to dispose of this question this evening. I am, perhaps as fond of talking at times as any other gentleman; but I must say, that there has not been a time since the commencement of this session that I have been disposed to talk for the mere sake of talking. I did not come here for the sake of making political capital for the Democratic or the Republican party. I came here to represent the sentiments of the people who sent me here; and when I have done that I shall be satisfied, no matter what gentlemen may think about the position in which they have placed me.

The question was then taken upon the motion made by Mr. Peters, that the committee rise, and it was not agreed to.

Mr. TRAER. I desire to ask whether there is any other gentleman who wishes to make a speech upon this subject? If there is not, I desire to make a motion.

Mr. BUNKER. I have changed my views in relation to this question since it first came before the convention, and I would like to give my reasons for such change.

I would remark here, that I did not come here for the purpose of striking out the word "white," or meddling with that word in the constitution; but I came here simply to assist in making some amendments to the constitution, and I hoped that the convention would dispose of them as soon as possible, and then adjourn and go home. When this resolution was presented to the convention, it struck me rather unfavorably, although I have acted with my friend from Henry [Mr. Clarke] wherever the natural rights of man were involved, and wherever there was something required to enable every human being to come into court and defend himself.

When this resolution was offered, and the debate was proceeding, and one speech was made after another, I was so blind that I could not perceive that they had any connection with the resolution under consideration. I very earnestly sought to arrive at any knowledge that would enable me to see any connection between the speeches made and the resolution. If the great and glorious constitution-loving and law-and-order-abiding Democratic party did, some years ago, violate that clause of the constitution, which secures the right of petition, by striking it down in the Congress of the United States, I could not perceive how that had any connection with the subject before the convention. Even if that party sold themselves to their enemies, the Whigs, and served them in bondage for a number of years, and then did return to their first faith, and abandon the worship of false prophets, and were restored again, and were then prepared to restore the right of petition, I could not see what connection that had with the subject under consideration.

Again: If that same party did strike down that provision of the constitution of the United States which secures to every citizen the freedom of speech, in the destruction of the press in the territory of Kansas, although that act might be clearly traceable to the Democratic party, from the fact that it was done by the authority of the judicial department of the government in Kansas, and done by men holding their appointments from Franklin Pierce, and whose conduct was sustained by the Democratic party in Congress, I could not perceive that that fact had any especial bearing upon this resolution.

Again: If the Democratic party—this constitution-loving and law-and-order-abiding party—did trample upon the freedom of the elective franchise in Kansas, by some slight irregularities, of which the gentleman from Des Moines [Mr. Hall] speaks, I could not perceive that it had any particular connection with the subject under consideration.

Again, if the same democratic Congress, that passed the Kansas and Nebraska act, and proclaimed at the north the doctrine of popular sovereignty,—if the same Congress that proclaimed this doctrine did declare certain laws of the territory null and void, and of no effect, thereby virtually repudiating the whole doctrine of popular sovereignty, I could not perceive that that fact had any particular bearing upon the subject under discussion.

During all this debate, I have been in the dark. The subject was laid upon the table and another article of the constitution, the bill of rights was taken up. In that article the committee have reported about the ordinary proposition to be found in articles of this character, that every person shall have the right to trial by jury, where his life or liberty are in jeopardy. When this matter came up, the democrats of the convention immediately smelt a negro, and then they claimed it would never do for us to lay down as a principle in our constitution, that a man may have a right of trial by jury, where his life and liberty were concerned. I then began to perceive that this thing had some bearing upon the subject under discussion. I then began to ask myself, whether this resolution was not proper in itself,—to ask myself how far we might go on with class legislation, which would tend to jeopardize our own liberties. If the democratic party upon this floor were alarmed at the very idea of affording protection to all the citizens of this state, by giving them the right of a trial by jury, I began to think that perhaps we could not safely enter upon this class legislation, without endangering our liberties. The question arose in my mind, whether it was safe for us to adopt any distinctions in our constitution, if they must be brought to bear upon the citizens of Iowa, in order to carry out class legislation. In taking this view of the subject, I partially changed my opinion upon this subject.

The gentleman from Des Moines, [Mr. Hall,] said that agitation upon such questions as we have been discussing here, was dangerous, and

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to be avoided at all times. I cannot look upon agitation in that light; but, on the contrary, I regard it as the life-giving principle of society: I regard it as essential in the moral as in the physical world. We might just as well condemn any agitation in nature, because some unfortunate mariner has been shipwrecked by the upheaving of the waves in a violent tempest, as to condemn agitation in the moral and political world. Without agitation of its waves, the ocean would soon become a putrid mass of corruption. It is agitation which is the principle that keeps everything pure, as well in the physical as in the moral world.

The gentleman from Des Moines, [Mr. Hall,] in the course of his remarks, charged us with introducing the negro into every question, and even as having done it in the bill of rights, where the word negro is not even mentioned. When the question of giving all the citizens of the State the right of trial by jury came up here, the democratic party could scent the negro at once. One gentleman of that party, however, at first did not perceive the scent, and voted with the Republicans; but he was soon whipped in, and the next morning he appeared upon the journal all right, and the whole party were then recorded as being against giving the right of trial by jury to all the citizens of Iowa, merely because they supposed they perceived the scent of the negro in the proposition.

When these things happen, it is time to look around us, and see how far we can go without endangering our own rights. The gentleman from Des Moines gave us, in his speech, quite an extended account of negroes. He said that this proposition, in regard to the right of suffrage, was introduced for the benefit of that class. He declared, among other things, in the course of his remarks about negroes, that the mulatto was a hybrid. Now I understand a hybrid to be a mixture of two distinct species, such as for instance the human with some other. In that view of the subject, gentleman need not be alarmed at striking out the word "white," for if a mulatto is a hybrid, a mixture between a man and some other species, then the striking out of that word will not be attended with the results which the gentleman fears. If the gentleman from Des Moines be correct in his position, then there is no danger in striking out this word "white," for we mean to extend this right only to human beings.

The gentleman from Henry, [Mr. Clarke,] upon the other hand, seems to be exceedingly sanguine that the principles of the resolution which he has introduced will and must prevail, and that, too, very soon; and that the gentleman from Wapello [Mr. Gillaspy,] will himself, at some future day, advocate it. I acknowledge I am not so sanguine upon this matter as the gentleman from Henry. Perhaps he may be gifted with a keener sense of what is to come in the future than I am; but I am inclined to the opinion, that his confidence in this respect results more from a sanguine temperament than from any other cause. I formerly myself entertained such sanguine hopes; and we all, more or less, at some period of our lives, entertain sanguine expectations with regard to the success of measures in which we are interested; but they are dispelled as time advances.

In looking over the history of the world, I find that there were men, who lived long ages ago, who were just as sanguine with regard to the future as the gentleman from Henry, and who prophesied that certain things would come to pass. I think the brothers Gracchi, when they undertook to protect and elevate the populace of Rome, in opposition to the aristocracy, might have been just as sanguine and positive, knowing the justice of their position, that they would succeed and carry out their measures within a few years, as the gentleman from Henry now is in relation to this matter. They fell, and their movement is now known in history as merely the sedition of the Gracchi. At a later period in Roman history, when the daughter of a Roman officer was seized, and about to be consigned to perpetual slavery, her father, by taking her life, aroused the public mind to such an extent, that they threw off the yoke under which they had labored, and showed that there was still some virtue left in the people. After that, the public virtue in the Roman State gradually sank and subsided. In the case of the Gracchi, as I before remarked, there were none to be found to advocate their measures; they could not carry the people with them, in sustaining the measures which they had proclaimed.

There is no necessity, in the nature of things, for a nation that has gained strength and power, to dissolve and perish. It will exist just as long as virtue has the ascendancy; but whenever vice gains the mastery, then it will go down. It should be our aim, in view of the examples which the past history of the world presents, to maintain inviolate the principles of liberty and justice in our constitution, and inflexibly oppose the introduction of any principle which will have a tendency to undermine the foundations of our free institutions.

In connection with the resolution under consideration, the gentleman from Mills [Mr. Solomon] introduced a proposition here, declaring that this convention should recognize as property in this State whatever was so held by the laws of any State in the Union. The adoption of this principle would not only carry slavery into this State, but it would utterly destroy the whole principle of States' rights, upon which our government is founded. If a citizen of one State may go into another State or territory, and carry with him anything recognized as property in his former State, and carry with him the institutions of the State which he left into the State to which he emigrates, then you destroy the very principle of States' rights, and make the laws of one State subject to the laws of all the other States of the Union. The idea is a monstrous one.

The gentleman from Des Moines [Mr. Hall],

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alluded, at considerable length, to the irregularities, as he called them, which had been practised upon our borders; and in the course of his remarks, he admitted that considerable many of the charges of cruelty that were made were true.

I wish to examine the subject a little and see out of what these irregularities grew, which consisted of murders, destruction of property, robberies, and the destruction of the elective franchise. I wish to lay down the position, to make it as plain as possible, that whatever crimes occurred in Kansas, by reason of the difficulties between the border ruffians and the citizens of Kansas, grew out of the great central crime—slavery. And I wish to take the position further, that slavery is, in itself, the master crime of all crimes, that it overshadows every other species of crime, and will consequently carry all other forms of crime with it in its service. If I can prove to you that there is no other crime of which the human mind can conceive that stands upon an equal footing with the crime of slavery, then I hope to be able to carry out the other thought which I wish to convey.

It is generally conceded that the public mind, where there is no prejudice brought to bear upon it, will arrive at very nearly the truth in defining what crime is. We find in our courts, and all through society, a greater sympathy with the murderer, who has committed a murder from other motives than that of gain, than with the murderer who has committed this crime impelled only by the desire of getting money. The public mind stigmatises that as the most debased and damning form of murder. If I can prove to you that this thing of murder for money changes ground and becomes a virtue instead of a vice when compared with slavery, then I have established the position I sat out to establish, that slavery is the master crime of the human soul, and that it will carry all other crimes into its service when it is necessary for its purposes that they should be exercised. If I murder you for your money, I am satisfied with what you have already earned. If I have it in my power to make you my slave, I am not satisfied with all you have earned, but I seize upon you, tax your sinews for all coming time, to satisfy the same passion that I satisfy if I were to murder you. Even if the crime of slavery should stop right there, I would claim that it was of a deeper dye than that of murder for money. But it does not stop there. I not only say to you that you are mine and must serve me, but that your wife is mine. I do not even stop there, but go on still farther and set up an additional claim upon you, and say that your children are mine, and must serve me and my children to the latest generation.

Thus I think I have clearly established the position that slavery in itself, without regard to color, is the master crime of the human soul. The whole south have changed their position within the last three or four years, in relation to defending slavery upon the ground of color. They do not defend it upon the ground that it was a curse inflicted upon Ham and his descendants; but now southern presses come out and defend it upon the ground that it is right in itself, and that the laboring classes properly belong to the capitalists.

If I have established the fact that slavery is of itself the master crime of the human soul, then it follows, as a matter of course, that the murders, burnings and robberies which occurred in Kansas, are so many parasites clinging to the system, and which will necessarily grow out of the institution, wherever it exists.

Now the question presents itself to my mind, in view of these considerations—can we submit to continue this class legislation, which leads to a less or greater extent into that condition? That is the only question for me to examine, in voting for or against this resolution. As I remarked before, I was at first unfavorably disposed to the resolution unde consideration; but when I come to look at it in view of this question, I really think that we would suffer more by continuing this word "white" in the constitution, and we would be in far greater danger of sapping the principles of civil liberty, than we would by allowing the few negroes who may be in the State the privilege of voting at our elections.

Another reason, and it is the great reason, why I shall vote for the resolution is, to give all the people an opportunity to vote for the constitution; for it is claimed, by the friends of this measure, that they will all vote for it, if they have a right to vote upon this side issue. I notice that the leading democratic organ of this city is taking ground against a great deal of the work we are doing here. I am anxious that this constitution should be adopted. A very few democratic members of the convention have expressed the opinion that they should take ground against its adoption. If the organ of the democratic party in this State, and the expression of opinion of a few democratic members here, foreshadow the action of the party, we must look for a powerful resistance to the adoption of this constitution. I would, however, exonerate the gentleman from Des Moines, [Mr. Hall,] from any such intentions. I was doubtful in regard to his course at first; but after witnessing his earnest labors, and his endeavors to make the various features of the constitution as perfect as possible, and after witnessing his untiring efforts to improve the article on education and school lands, the article on banks, and other articles, I have become thoroughly convinced that he has worked faithfully to get a constitution such as the people will accept. In view of the action of a portion of the democratic party of this convention, in view of the action of their press here, I am led to believe that there will be a powerful opposition to the constitution. If we can secure from four to five thousand votes for it, by sending this resolution to be voted upon by the people as a side issue, I shall certainly vote for it.

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Mr. PALMER. I desire to congratulate the gentleman from Washington, [Mr. Bunker,] upon his conversion to abolitionism. I am glad to see gentlemen show their hands. We are having a good time of it, and I move, therefore, that the committee rise, report progress, and ask leave to sit again.

Mr. HALL. I move to amend by saying that the committee shall ask leave to be discharged from the further consideration of the subject.

Mr. CLARKE, of Henry. I believe there is an amendment now pending to the resolution. We might dispose of that now.

Mr. MARVIN. It strikes me that the committee should not rise until we have taken a vote upon the amendment. While I feel anxious to have this debate close, I am equally anxious that gentlemen who desire to speak shall have the opportunity to do so. If no gentleman desires to speak we had better act upon this resolution now.

Mr. HARRIS. I hope gentlemen will not be modest in regard to this matter, but make their wishes known.

Mr. PETERS. I desire, myself, to make some remarks upon this question.

Mr. MARVIN. I renew the motion, that the committee rise, report progress, and ask leave to sit again.

Mr. SKIFF. Let us vote upon the amendment.

The amendment was to so change the resolution that it will apply only to the first section of the second article of the constitution, being the article upon the right of suffrage.

The question was then taken upon the amendment, and it was agreed to.

Mr. WILSON. I wish to offer an amendment so as to make the latter part of the resolution read as follows:

"And if, at said election, a number of ballots, equal to a majority of all the ballots cast for and against this constitution, shall have the words 'shall the word 'white' be stricken out of the first section of the second article of this constitution?—yes,' then the word 'white' shall be stricken out, and shall not be a part of the said constitution."

The amendment simply provides that the votes upon this proposition shall be governed by the number of votes cast for and against the constitution, and it shall require a majority of the whole number of votes cast for and against the constitution to adopt this provision; so that persons who do not choose to vote either way can let it alone, and still their votes would count.

Mr. PARVIN. I am opposed to the amendment. I desire to have this matter go before the people, and I want to have their votes recorded one way or the other.

Mr. GILLASPY. The gentleman from Muscatine, [Mr. Parvin,] certainly does not understand the intention of the mover of the amendment. It is in order that the Republicans may say in future that they did not vote for this proposition.

The question was then taken upon the amendment offered by Mr. Wilson, and it was agreed to.

Mr. PALMER. I move that the committee rise, report progress, and ask leave to sit again.

Mr. HALL. I move to amend the motion by saying that the committee report the resolution back to the convention, and ask that they be discharged from its further consideration.

The question was taken upon the amendment offered by Mr. Hall, and it was agreed to, upon a division; ayes 18, noes not counted.

The question was then taken upon the motion as amended, and it was agreed to.

In Convention.

The PRESIDENT having resumed the chair—

The CHAIRMAN reported that the committee of the whole, to which had been referred the report of the select committee on the right of suffrage, had had the same under consideration, had made some amendments thereto, and asked to be discharged from its further consideration.

Leave was granted, and the committee of the whole were accordingly discharged.

The PRESIDENT. The question will now be taken upon agreeing to the amendments made in committee of the whole to the report of the committee on the right of suffrage.

The first amendment in committee of the whole was to so change the resolution that it will apply only to the first section of the second article of the constitution.

The question was then taken, by yeas and nays, upon the amendment, and it was agreed to; yeas 27, nays 5, as follows:

Yeas—The President, Messrs. Clark of Alamakee, Clarke of Johnson, Edwards, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Bunker, Clarke of Henry, Day and Emerson.

The second amendment of the committee of the whole was to make the latter part of the resolution read as follows:

"And if, at said election, a majority of the ballots, equal to a majority of all the ballots cast for and against this constitution, shall have the words 'shall the word 'white' be stricken out of the first section of the second article of the constitution?—yes;' then the word 'white' shall be stricken out, and shall not be a part of the constitution.

The question was then taken, by yeas and nays, upon the amendment, and it was agreed to; yeas 23, nays 10, as follows:

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Yeas—The President, Messrs. Ayres, Bunker, Clarke of Johnson, Day, Ells, Gibson, Gillaspy, Gower, Hall, Harris, Hollingsworth, Johnston, Palmer, Patterson, Peters, Price, Seely, Skiff, Solomon, Warren, Wilson and Young.

Nays—Messrs. Clark of Alamakee, Clarke of Henry, Edwards, Emerson, Gray, Marvin, Parvin, Scott, Todhunter and Traer.

Mr. HARRIS. I have a substitute which I desire to offer for the whole resolution. I will simply state that it is the provision in the constitution of the state of Indiana with regard to the exclusion of negroes from the state. I have not presented it to any member, and there is no one pledged to its support except myself.

The substitute was then read, as follows:

ARTICLE,—*Negroes and Mulattoes.*

Section 1. No negro or mulatto shall come into the state, after the adoption of this constitution.

Sec. 2. All contracts made with any negro or mulatto coming into the state contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the state, shall be fined in a sum not less than ten nor more than five hundred dollars.

Sec. 3. All fines that may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes and their descendants, as may be in the state at the adoption of this constitution.

Sec. 4. The General Assembly shall pass laws to carry out the provisions of this article, and to make provisions for the colonization of the negroes and molattoes, and their descendants who shall at the time of the adoption of this constitution have a legal residence in the State."

Mr. HALL. I move to lay the substitute on the table.

The question was then taken by yeas and nays, upon the motion to lay upon the table, and it was agreed to, yeas 25, nays 8 as follows:

Yeas.—The President, Messrs. Ayres, Bunker, Clark, of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Gower, Gray, Hall, Hollingsworth, Johnston, Marvin, Parvin, Price, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson and Young.

Nays.—Messrs. Emerson, Gibson, Gillaspy, Harris, Palmer, Patterson, Peters and Solomon.

Mr. GILLASPY. I desire to say in explanation of my vote, that I supposed the gentleman from Appanoose, [Mr. Harris] was going to make a speech, and I had no disposition to treat the author of this proposition with anything but proper courtesy. I desired to give him the opportunity to make a speech.

The PRESIDENT. The question now is upon ordering the resolution to a third reading.

The resolution as amended, was then read as follows:

"At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "Right of Suffrage," shall be separately submitted to the electors of this state for adoption or rejection, in manner following, viz: A separate ballot may be given by every person having a right to vote at said election to be deposited in a separate box. And those given for the adoption of such proposition shall have the words "Shall the word "white" be stricken out of the article on the "Right of Suffrage?" "Yes." And those given against the proposition shall have the words "shall the word "white" be stricken out of the article on the "Right of Suffrage?" "No." And if at said election a majority of the ballots equal to a majority of all the ballots cast for or against this constitution, shall have the words, "shall the word "white" be stricken out of the first section of the second article of the constitution?" "Yes",—then the word "white" shall be stricken out and shall not be a part of the said constitution."

Mr. SKIFF. I call for the previous question.

Mr. GILLASPY. I intend to be consistent in my action as a member of this body. I voted against taking up the time of the convention with the discussion of this question during our regular daily sessions. I refrained from taking any part in this debate. I did design to submit a few remarks when this question should come up for the final action of the convention; but if the party in power here are disposed to force the matter through under the previous question, I shall not insist upon being heard.

Mr. HALL. I second the demand for the previous question.

Mr. SKIFF. Although the delegate from Des Moines [Mr. Hall,] is particularly anxious that the previous question shall now be put, I will not insist upon it.

Mr. GILLASPY. The reason why I did not undertake to make a speech in committee of the whole, was from this fact: I wished to let gentlemen occupy time there who make speeches of two and three hours long. I did desire to put myself upon the record in regard to this resolution, and I expected that I would have the courtesy granted me by the majority to do so, when we came into convention. These gentlemen, who insist upon the previous question, are upon the record with speeches of an hour, or an hour and a half in length. The hour is now too late to enable me to go on.

Mr. TODHUNTER. I move that we adjourn until 9 o'clock to-morrow morning.

The question was taken, and the motion was not agreed to.

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Mr. MARVIN. I move that we adjourn till seven o'clock this evening.

The question was taken upon the motion to adjourn, and it was not agreed to, upon a division; ayes 14, noes 14.

Mr. CLARKE, of Johnson. I move that we adjourn until to-morrow morning.

Mr. JOHNSTON. Upon that motion I call the yeas and nays.

Mr. PARVIN. I wish merely to say, that I hope the majority will not deprive those who wish to speak of the privilege of doing so. I am ready to vote upon this question at any time, but I do hope that the convention will adjourn, and give gentlemen an opportunity to speak to-morrow if they desire to do so. I move that we adjourn until a quarter after nine o'clock to-morrow morning.

Mr. GIBSON. I move that we adjourn till a quarter past seven o'clock this evening.

Mr. WILSON. I have voted upon several occasions for evening sessions. I wish to make a suggestion for the consideration of the convention; I desire to say that the committee on the schedule want to put their report in shape by to-morrow morning. If the convention hold a session to-night, we will not be able to do it. I will vote to give those gentlemen, who desire it, all the time they want to-morrow to speak. I am opposed to cutting them off from the privilege of speaking. I hope they will have all the time they want to-morrow, and that we will not hold a session to-night.

The question was then taken on Mr. Parvin's motion, and it was agreed to.

The convention then adjourned till a quarter past nine o'clock to-morrow morning.

TUESDAY, March 3, 1857.

The Convention met at a quarter past nine o'clock A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of yesterday was read and approved.

Schedule.

Mr. WILSON submitted the following report from the Committee on the Schedule:

The standing committee on schedule beg leave to submit the following report and recommend its adoption by the convention:

ARTICLE 12.—SCHEDULE.

Section 1. This constitution shall be the supreme law of the state, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

Sec. 2. All laws now in force and not inconsistent with the constitution, shall remain in force until they shall expire or be repealed.

Sec. 3. All indictments, prosecutions, suits, pleas, plaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as now provided by law.

Sec. 4. All fines, penalties, or forfeitures due, or to become due, or accruing to the state, or to any county therein, or to the school fund, shall inure to the state, county, or school fund, in the manner prescribed by law.

Sec. 5. All bonds executed to the state, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

Sec. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the state shall elect the Governor and Lieutenant Governor. There shall also be elected at such election, the successors of such State Senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the House of Representatives, who shall be elected in accordance with the act of apportionment, enacted by the seventh General Assembly of the state.

Sec. 7. The first election for Secretary, Auditor, and Treasurer of State, Attorney General, District Judges, District Attorneys, members of Congress, and such state officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the Superintendent of Public Instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except Prosecuting Attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight.

Sec. 8. The first election for Judges of the Supreme Court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

Sec. 9. The first regular session of the General Assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

Sec. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

Sec. 11. Every person elected by the popular vote, by vote of the General Assembly, or who may hold office by executive appointment, which

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office is continued by this constitution, and every person who shall be so elected or appointed, to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire: *Provided*, that no such person shall continue in office after the taking effect of this constitution, for a longer period than the term of such office, in this constitution prescribed.

Sec. 12. On the taking effect of this constitution, all officers thereby continued in office, shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this constitution.

Sec. 13. The General Assembly, at the first session under this constitution, shall district the state into eleven judicial districts, for district court purposes; and shall also provide for the apportionment of the members of the House of Representatives, in accordance with the provisions of this constitution.

Sec. 14. The foregoing constitution shall be submitted to the electors of the state at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New Constitution—Yes." Those against the constitution, "New Constitution—No." The election shall be conducted in the same manner as the general elections of the state, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the Secretary of State, which abstracts shall be canvassed in the manner provided for the canvass of state officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the Governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the state of Iowa, and shall take effect from and after the publication of said proclamation.

Respectfully submitted:

LEWIS TODHUNTER,
JAMES F. WILSON,
H. W. GRAY.

The undersigned concurs in the foregoing with the exception that he favors the election of Supreme Court Judges at the election in October, 1857.

H. J. SKIFF.

On motion of Mr. PALMER,

The report was laid on the table and one hundred copies ordered to be printed for the use of the convention.

Suffrage Restricted to Whites.

The PRESIDENT. The resolution reported from the select committee on the right of suffrage, as amended by the committee of the whole, is the first business in order this morning.

Mr. TODHUNTER. I move that the rules be suspended so that the gentleman from Delaware, [Mr. Peters,] and the gentleman from Wapello, [Mr. Gillaspy,] can have ample time to discuss this question in convention, without resolving ourselves into committee of the whole.

Mr. GILLASPY. I am much obliged to the gentleman from Warren, [Mr. Todhunter,] but when I wish him to make a motion for me, I will give him notice.

Mr. PETERS. I have voted uniformly against going into committee of the whole, so that gentlemen might make political speeches, and I did it for the purpose of saving the time of the convention. I must confess that I was anxious to make some remarks upon this subject, and wished to do so, when it would not have interfered with the regular sessions of the convention. I made what little effort I could to have the convention meet last evening, for the purpose of disposing of this matter. For one, I am anxious to close our labors here and get home; and however much I may desire to express my views upon this subject, and repel the insinuations and charges that have been made against the democratic party, I am willing to forego that purpose for the purpose of proceeding with the business of the convention.

Mr. GILLASPY. I stated last evening that I desired to say something upon this question. Upon reflection I am disposed to let the question come to a vote without saying a word upon it myself, from the fact that I desire to leave here and go home as soon as possible. If we undertake to discuss the resolution this morning, in all probability we will consume a whole day.

The PRESIDENT. The question is then upon ordering the resolution to a third reading. It has been read the second time, and the question now is, shall it be ordered to a third reading?

Mr. PETERS. This resolution was referred, as I understand it, to the committee of the whole. They made some amendments to this resolution, which were agreed to by the convention. The inquiry I wish to make is, whether the resolution as amended should not be adopted.

The PRESIDENT. The chair thinks that this resolution is different from an ordinary resolution. It is in the nature of a report from a standing committee, upon an article of the constitution, which has really to undergo three different readings upon three different days. This resolution has been read twice, and the question now is—shall it be read the third time?

Mr. WINCHESTER. Before the vote is taken upon ordering this resolution to its third reading, I desire to state briefly the considerations which will govern me in the vote I shall give. When this subject of the "right of suffrage" was referred to a special committee, the friends of the reference said it would save time. I looked upon that reasoning as fallacious at the

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time, and voted against it. I have invariably voted against bringing this question of negro suffrage into this convention in any form, believing that it would take up a considerable length of time, and result in no good to any one. As I said before, I did not come here to tear down the old constitution and build up a new one; but simply to modify, amend and revise the present instrument. Nor have I voted for a single material change that was not expressly demanded by the people before this body convened.

But, sir, this question has been introduced here; it is before us; and the question now arises—what disposition shall be made of it? I am free to admit that when it was first brought forward, I would have voted in any way that in my opinion would have disposed of it in the shortest time, and thus save the time of this body which has been spent in discussing political principles and party issues. Now, sir, after having spent so much time, I know of no better way to get rid of it, than by carrying out the democratic principle of submitting it to the people, and letting them pass upon it in their sovereign capacity. And I am now willing to say that so far it is republican policy, and I am willing for one to assume the responsibility. But I do not admit, and most emphatically deny, that to give the negro the right of suffrage, or place him on an equality, politically or socially, with the white race, is a *tenet* of the republican party. Nor has that party, as a party, ever endorsed that policy, though I am aware that the opposition have tried to humbug the people into that belief. Although I am aware that they have charged, and falsely charged, us with being the abolition party, with being the sectional party, with being in favor of dissolving the Union, these charges have been triumphantly refuted, time and again, and I will notice them no farther.

We are also aware, sir, that the action of this convention will be made the Democratic textbook, both on the stump and in the party papers throughout the State. I heard a member of this body assert, several days since, that he would vote and take the stump against the adoption of the amended constitution. Now, we will meet them every time on the issue of submitting an important question to the people, and defy them to do their utmost. In the lanlanguage of Shakspeare—

"Lay on, Macduff,
And damn'd be he who first cries, hold, enough."

I contend that the difference between the two parties, during the last campaign, was confined to one issue, and one only: that issue was not the abolition of slavery in the Southern States, where it legally exists; that issue was not the political and social equality of the whites and the blacks. What was it, then? Sir, it was—No further extension of the area of slave territory.

I believe that if the institution of slavery had been confined to the States where it existed when the government was organized, not a vestige of it would remain to curse the land at this day. And none, I trust, will deny that it is a curse and a reproach upon our country. And I believe, further, that if it is confined to its present limits, the ultimate result will be its extinction.

It is not the products of slave labor that enriches the owner in the older States; but it is raising the slaves themselves for market; and they know full well that if you cut off the possibility of extending the institution, thus preventing the creation of new markets for slave property, it must die a natural death.

It is the spirit of Southern aggression, sir, that we are contending against. And when leading Democrats in the North tell us they are opposed to the extension of slavery, and still submit to be made the tools of the South in carrying out their wishes, I cannot believe them honest in their professions; for actions are more expressive than words. I care not what a man may say here or elsewhere, I look to his vote on the main question, and judge of him by his works.

A feeling of hostility has existed in the South against the North ever since the foundation of this government. This feeling was evinced by John Randolph, (the leader of the States' Rights party at that time), in speaking on the compromise question in 1820, when, in answer to a Northern man, he said: "We will assert, maintain, and vindicate our rights, or put to every hazard that which you claim to hold in the highest estimation;"—alluding to the Union—as much as to say, We will have what we claim as our right at the risk of dissolving the Union. The same and similar threats have been made time and again, and Northern doughfaces have succumbed as often, all for the sake of place and spoils.

It was the same desire for more slave territory which led to the conception of the Kansas-Nebraska bill by the South, and brought forth by their suppliant tool, Stephen A. Douglas, by the passage of which the plighted faith of the nation was disregarded. That partition wall which protected the white man of the North was broken down, and the Missouri compromise—that fair structure erected by the hands of sages for the benefit of our common country—ruthlessly razed to its foundation; thus inviting in hordes of Goths and Vandals from the South to overrun our Northern territory, and spread desolation and carnage in their path.

I believe, sir, that it was this same desire for slave territory that brought about the war between Mexico and the United States. I believe, if the fillibustering expedition of 1851 against Cuba had been successful, and that fair island had been annexed to the United States as slave territory, thereby furnishing a new market for the slave-raising States, the great compromise of 1820, (which will be remembered as long as the Sage of Ashland has an abiding place in

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the hearts of his countrymen), would to this day have remained inviolate.

These are, briefly, some of the reasons why I am a Republican. And, finally, I will say, I understand the principles of the Republican party to be—that Congress has the right to legislate in the territories—no more slave territory—and that all men are equal, as far as nature and nature's God has made them so. I shall vote for this resolution.

The question was then taken, by yeas and nays, upon ordering the resolution to a third reading, and it was agreed to; yeas 20, nays 13, as follows:

Yeas—The President, Messrs. Bunker, Clark, of Alamakee, Clarke, of Henry, Clarke, of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price and Solomon.

The PRESIDENT. The resolution will be referred to the standing committee on revision, as a matter of course.

Distributing the Debates.

On motion of Mr. CLARKE, of Johnson,

The report of the special committee upon the subject of "indexing and superintending the publication of the debates and the distribution of the same," was taken up.

The report was then read as follows:

"*Resolved*," That W. Blair Lord be employed to index and superintend the publication of the debates of this convention, and that he be allowed the sum of one hundred and twenty dollars for said services.

"*Resolved* further, That five hundred more copies of said debates be ordered from the publishers in addition to the fifteen hundred copies already ordered, and if the same shall exceed twelve hundred pages, they shall be bound in two separate volumes. And when the debates shall have been published, they shall be distributed as follows: Eighty copies to the State Historical society; two copies to each state and organized territory: five copies to each county in this state, one of which shall be kept in the county office; twenty copies to each member of this convention; five copies to each member of the Senate; one copy to each member of the House of Representatives, three copies to each of the Secretaries; Reporters, Sergeant-at-arms and Chaplain of this convention; one copy to each state officer, Supreme and District Judge, and District Prosecuting Attorney. The remainder of the two thousand copies shall be placed in the possession of the state to be disposed of as may be designated by law.

Mr. CLARKE, of Johnson. I would state that the chairman of the committee on this subject, is absent at this moment. But some of the members have had an opportunity to converse with the publishers, in relation to the additional copies, for which provision is made in this report, and they find that instead of there being five hundred, there are only two hundred. It is doubtful at what price we can get these for, as the number is so small. Of the two hundred copies, the publishers desire to retain some copies themselves.

Mr. YOUNG. Will the motion I made the other day, in relation to striking out that part of the resolutions which provides for procuring five hundred additional copies, come up now?

The PRESIDENT. It will.

Mr. TODHUNTER. I had an interview with one of the publishers, and he told me that he had printed only two hundred extra copies, and that we could not get all of them. If he had to re-set the matter again, he would charge us extra, and that would amount to three hundred dollars more. He wanted to keep twenty-five copies himself, and we could only get one hundred and seventy-five.

The PRESIDENT. The motion now before the convention is that made by the gentleman from Mahaska, [Mr. Young,] to strike out that portion of the resolutions which provide for procuring five hundred additional copies.

The question was taken and the motion was agreed to.

Mr. PALMER. I move to fill the blank with one hundred and seventy-five. I suppose from the information furnished by the gentleman from Warren, [Mr. Todhunter] that we can get that number.

The question was taken upon the motion made by Mr. Palmer, and it was not agreed to.

Mr. SKIFF. I move to amend that portion of the report, which provides for giving three copies of the reports to each of the reporters, secretaries, and the sergeant-at-arms, so that they will be entitled to five copies each.

The question was taken and the motion was agreed to.

Mr. SKIFF. I move that our messengers, and all the officers connected with the convention, who have not been heretofore provided for, shall be entitled to one copy each of these debates.

Mr. GILLASPY. I wish the gentleman would make his motion a little broader, so as to furnish each adult in the State with a copy. There is no sense in voting a copy to each of these boys. I think when we have supplied the reporters, secretaries, and the sergeant-at-arms with copies, that we have done enough. I am willing to vote them to these gentlemen. If we vote them to these boys, they will never read them. If it be for speculation, let us vote them so much money. I hope the motion will not prevail, as I do not see any necessity for it.

Mr. BUNKER. I hope we will vote the boys a copy each. It should be recollected that these boys will be men after a while, and they will be anxious to look over these proceedings.

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Mr. MARVIN. I am opposed to this motion. I have some five hundred or a thousand fine boys in my county, who will not get these debates. Many of my constituents will not get them. Our object should be to put them into the hands of those who will not only read them, but explain and expound them.

The question was taken upon the motion made by Mr. Skiff, and it was agreed to, upon a division; ayes 12, noes 5.

Mr. TRAER. I move to strike out so much of the report as provides for distributing five copies to each senator, and one copy to each member of the house of representatives.

The question was taken, and the motion was agreed to.

Mr. GOWER. I move to amend the resolution, so that each member of the General Assembly shall be provided with one copy. I think that each member of the General Assembly should have at least one copy. There is no class of our citizens better qualified to judge of the importance of this work, and to make better use of it. It strikes me, that it would be very proper to provide each member with a copy of these debates.

The PRESIDENT. The report provided that each member of the senate should be provided with five copies, and each member of the house of representatives with one copy; but that provision has been stricken out. An amendment to reinstate any portion of it would not be in order.

Mr. TRAER. The copies of these debates, that are left, after the distribution for which we have provided is made, will be placed in the possession of the State, and the General Assembly can then provide for themselves.

Mr. HALL. I do not feel very liberal towards the late legislature. I drew up a resolution authorizing the legislature to procure a corps of reporters to furnish us with a report of our proceedings, which I gave to one of the members of that body. It was presented, but they changed it so as to give us only one reporter. When we employ reporters in spite of them, they then turn around and order these books. I would like to show a little spirit in this matter, and not give them a solitary volume. They undertook to do all they could in order to prevent us from having our proceedings reported. Let them now take care of themselves in getting these debates just as we were compelled to do in having them reported.

Mr. GOWER. We should follow the golden rule in respect to this matter. I do not think, because the General Assembly voted themselves these books, that we should cut them off. For my part, I desire that each member of the General Assembly should have a copy.

Mr. CLARKE, of Johnson. This is perhaps not now in proper shape to go upon the record. We ought to know how many will be left when the distribution is made, so that we can make some distribution of the remainder, or provide that they shall be left in the state library or elsewhere. But I have first an amendment to offer, which may effect the result somewhat. We have already voted eighty copies to the State Historical Society, which I suppose are intended in part for exchange with the states and territories for their works. I therefore move to strike out "two to each organised state and territory."

Mr. HALL. That provision was for exchanging with other historical societies in the different states; and this is for the state libraries. They are distinct matters.

Mr. CLARKE, of Johnson. Then I will withdraw my motion.

Mr. TRAER. I move to strike out the provision allowing five copies to each organised county; and I do it for this reason: It is well known to gentlemen who are acquainted with the manner in which county business is transacted, that these reports, if they ever reach their destination, will not be taken care of. They will lie in the offices subject to be carried off by the first man who comes in. They never will attain the end designed for them. I would rather give these five copies to members of the convention to distribute to men that will take care of them. If we place them in the county offices, the first loafer that comes along will pick them up and carry them off, and that will be the last of them.

Mr. GOWER. It strikes me that the remarks of the gentleman from Benton [Mr. Traer] are not applicable to these county offices. It occurred to me that the very first appropriation I should make of my copies for distribution would be to place some of them in the county offices, if they were not otherwise provided for. I would give each one a copy. I think there are no more proper persons in the state to have them than these county officers. They would probably use them more than any other persons, and their interchange and communication with the people would be greater than that of almost any other persons in the county. So that I think the journals of our debates would do more good to the public placed there than in any other place. For my part, I shall see that each of our county officers has one before I distribute to any one else. But I would rather they should receive their copies direct from the convention, for this reason, among others: that we shall be censured if we take all these copies ourselves, especially if there are county officers who do not get them, and who would be very likely to complain. I would rather make provision that they should go directly to the county officers, than that they should go through the members of the convention. I think the county officers would prize them more highly, and take better care of them. I hope that amendment will not prevail.

Mr. SOLOMON. I hope that motion will not prevail. I think, with the gentleman from Cedar [Mr. Gower] that it is the most important place in which these books could be placed. It

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is the only place in many of the counties, where they could be placed in a public library.

Gentlemen seem to have some mistaken notions about these county officers. One gentleman has said that when they go out of office, they will put the books under their arms and carry them home. Now I can tell these gentlemen that if such a thing should be done in Mills county, we have a place for such light-fingered gentlemen. We should put these books upon the shelf, in our county office, and there they would be safely kept. I would not send these books to the counties to be placed among the archives, but for the use of the people for all time to come.

Mr. CLARKE, of Johnson. I am in favor of striking out that provision, for the reason that it is an inequitable division of the reports. If the resolution stands as it now does, every county, no matter how small, gets five copies, which is as many as the largest county in the state receives. There is nothing to be gained by it. As the gentleman from Benton [Mr. Traer] has very properly remarked, they will not remain in those county offices. The person who receives them will perhaps give them away to his particular friends, without any regard to their merit or position.

They are of no particular use in the county offices. They are not particularly calculated to instruct the county judge, or the prosecuting attorney, in their duties. It is all a farce to say that they will be kept in the archives of the county. A county has no archives for the purpose of keeping books. I undertake to say that when the laws and the code were distributed, they did not remain in these offices. But the officer who happened to fill the place at the time, when he went out of office, put them under his arm and carried them home. That will be just the way with these books.

The object of the distribution is to place the books in the hands of intelligent men through the state, men who will use them, men who will be the means of diffusing information in regard to them among the people. I think that the members of this convention, being well acquainted in their respective districts, can just as well circulate them among the people as to leave it to the county officers to do it. I am therefore in favor of striking out this provision.

Mr. HALL. There are a good many places where volumes should be sent, where they would be of more service than distributed in almost any other way. Two sets of this work ought to be sent to the Astor Library in New York, and to the Mercantile Library in Chicago; to the principal cities which our citizens would have occasion to visit, so that when we are there we can have access to them. It would often be a matter of considerable consequence to know where we could find them when in those cities. The Congressional Library should be supplied. The Smithsonian Institute should be supplied. We ought to have some method in this distribution, and these libraries should be properly provided for. There should be a few copies sent to each county, and I think five are not too many to send to any county. There may be some new counties where they would not be used immediately, but they would be wanted hereafter. There is the county of Des Moines, as in the other old counties, we have three or four library institutions, gathering up their libraries with great zeal and success. Each should have a copy; and we have a historical society which should have a copy. These may be supplied by the members; but in the new counties, where there may be eight, ten or fifteen counties to a district, the member could not distribute through them all in such a manner as to meet their future wants. But sending five copies to each county would make them, in the end, about equal to the old counties. It is true that many of these may be lost or carried away. They can hardly be lost unless carried from the state; and, when these institutions are forming, these scattered volumes will be hunted up and given to the libraries. They are not such works as a man would ordinarily wish to keep upon his shelf for daily reference, and, in most cases, those volumes supposed to be lost would find their way to the shelves of the public libraries. I think we ought to send five copies to each county.

Mr. TODHUNTER. I certainly think that this is one of the most important provisions of this report. Some gentlemen here represent twelve or fifteen counties. If it is left to these members to furnish each county, besides their constituents, in these large districts, they would not have many copies left, even with the most sparing distribution. The twelfth district, represented by the gentleman from Pottawatomie, [Mr. Price,] embraces, I think, fifteen counties; so that if he should give one to each county he would have but five copies left for general distribution. But if this passes as it now stands, each one of these fifteen counties would receive five copies. I do not think there is any danger of those county judges embezzling and carrying off these documents. I think they would be judiciously placed where they could be most serviceable. I am confident that that would be the result in my county. I think one would be placed in the office of the county judge, to remain there permanently, one in the clerk's office, and one in the treasurer's office; and then there would only be two copies left to dispose of. Then those books will come down as part of the records of the office, to be transmitted to each successive occupant, and always to be ready to be examined by any person who comes into either of these offices. I have not so bad an opinion of our judges as some gentlemen seem to have, in thinking they will steal and carry away these books, or burn them and destroy them, as some have said. We should not be so jealous of our county officers as that. I hope this provision will be adopted in some shape.

Mr. GILLASPY. I think the difficulty of the

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gentleman from Des Moines, [Mr. Hall,] can be obviated by the members of the several counties. There is no question but that every member upon this floor, when he went home, would furnish all the public libraries in his district with a copy of these debates. The gentleman from Warren, [Mr. Todhunter,] may perhaps want to run for county attorney; he seems to think the county judges are so very honest and very nice. I recollect, myself, that when this code first came out, it was the handsomest book we had distributed. The book looked as though it was worth more money than any other; and one thing was very noticeable; that when the incumbents of the offices where these codes were received, went out of office, these codes went out at the same time. I recollect well that at one of the district courts a copy was wanted for reference, and it could not be found. When these county officers get these books they write their own individual names in them instead of marking them as the property of the county. As a matter of course, when they go out they suppose it is their property, and take it with them. I will stake my word that, if we send these copies to the counties, you may go through the offices a few years hence, and not a solitary copy will be found there; but if you will follow some of those county officers home you will be pretty sure to find a copy of the debates upon their shelves. Now it makes no difference to me which way this goes. I would as soon send to my county, myself, as to distribute them in this way. But I know how it would be in my own county. If the books were not taken away without leave, they would be given out to others than the county officers. So far as my county is concerned, both as to these officers and different societies, I am willing to supply them, and I suppose others will do the same. But I am opposed to giving Lee county five copies, and Buncombe county, without a solitary white man living in it, the same number of copies. There is no propriety in it. It is a great impropriety, and it should be stricken out.

Mr. SKIFF. I think we are spending more time on these books than their value will warrant. I presume that, in most places, these books will only be read by a few curious persons; that they will not be examined very much any way. I do not know that it will make much difference what we do with them, because these few curious persons are so constituted that they can find curiosities anywhere, and we could not keep them out of their way. I move the previous question. I want to get to work upon something else. The report in relation to the school fund has been handed in by the committee on that subject. It is now upon our table. It has not been in the printer's hands at all, and I understand we can go to work upon that.

The motion was not seconded.

The question being taken upon Mr. Traer's amendment to strike out the provision furnishing five copies of the debates to each county, it was agreed to; ayes 13, noes 9.

Mr. SOLOMON. I move to insert four copies to each county.

The PRESIDENT. That motion is not in order. The whole was stricken out, and not merely the word "five." A motion to reconsider will be in order.

Mr. CLARK, of Alamakee. I voted under a misapprehension. I am in favor of giving two copies to each county, but opposed to giving five copies. I move to reconsider.

The motion to reconsider was agreed to; ayes 15, noes 4.

Mr. CLARK, of Alamakee, moved to strike out "five" and insert "two."

Mr. TRAER. I will make a suggestion which will perhaps settle this question, that we provide that there shall be distributed so many in each county. In that way I think we can attain the result we desire, without leaving them where they would not probably be of any use. If my pending motion should prevail, I propose to move that five additional copies for each county be given to each member for distribution, and that the members be required to distribute so many copies in each county.

Mr. HALL. I think it would be very hard upon the gentleman from Pottawatomie [Mr. Price] to make it his duty to distribute five copies of these debates in each county of his district. I think it would be much better to have the distribution made by the Secretary of State, or the officer who will distribute the other volumes, to leave them in the different counties as required. It is certainly taxing the members from the large districts too much; and we have no security at all that the distribution would ever be made, since it is a duty which we could not require members to perform. Besides, members may move away, or be in a different position before the time comes for the distribution of these copies, so as to make it impracticable for them to attend to it. But if we send them directly, they will certainly reach their destination.

I think that five copies to each county is not too many for the county offices, and if they are, I think that the county officers are more competent than anybody else to distribute them. I am willing to let the county officers of my county make the distribution. I believe they are just as capable as I am, and that the books would be just as likely to go to the right places; and as a general thing, I suppose it will be so throughout the State. I hope the distribution will not be to members in such numbers that they can sell them, or send them out of the State. They may go away, and the books may fall into the hands of irresponsible persons. There are thousands of ways in which the books could be got away, if there is no public mode of distribution.

Mr. CLARK, of Alamakee. I am opposed to sending as many as five into each county, to the county, as a county. In the first place, if they are sent to the county as county property, the

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question will arise whether the officers in office are bound to take care of them; whether we have any power to enforce any obligation upon the officers of the different counties to take charge of, and to take care of these volumes until the constitution becomes a law. It seems to me that we have not; and that if we resolve to send them to the counties as county property, that resolution will be a nullity, at least until the constitution shall take effect. And if the resolution should have any effect, these county officers would have no right to distribute them. These books would be piled up in the archives of the county, or remain there. True, a man might go in there and read them; but the books could not be circulated; they could not be distributed. I do not understand what gentlemen mean when they talk about the county officers distributing property which belongs to the county. They have no such right. I think that two volumes to each county, to remain in the county offices for reference, would be enough to lie there. The rest of them I should wish to have circulated in the county, where they may be of the most service, so as to meet the eye of every public man in the counties. For these reasons, I am in favor of cutting down the number from "five" to "two."

Mr. CLARKE, of Henry. This whole discussion and all the difficulty here, have grown out of the fact that we did not measure our cloth according to the garment. It is crimped too much. We need more copies for distribution. I believe that every organized county in the State ought to have a greater number of copies than five; that members ought to be relieved of the responsibility of taking these copies home with them to distribute. It is a duty that we shall all find a very unpleasant one. We shall have but very few copies to distribute, in comparison with the numbers which will be wanted, and do what we will, with this responsibility thrown upon us, there will be more dissatisfaction than satisfaction growing out of it. I should have been glad to have had published the largest number proposed. I would have left them with the Secretary of State, to distribute them in the different counties upon some plan of apportionment which we might adopt, or which he might suggest, and leaving a sufficient number to supply the legislature. As it is, I understand from our printer that he can set up the matter of the first few pages again at a cost of about three hundred dollars, so that we can then have struck off the two thousand copies that I believe we have already voted to distribute; and we can go beyond it if we wish. It is only a small portion of the volume which has been set up now, about two hundred pages, I believe, so that the cost will be only that of the composition of so much matter. I would suggest that as we are so much troubled with distributing so small a number, and as one thousand seven hundred is the largest number we can get, perhaps the committee should take into consideration, and report whether we cannot get a larger number at a very little extra cost to the State.

The PRESIDENT. A member of the committee has already made a verbal report; and it has been decided that the convention should order no more than one thousand five hundred copies.

Mr. CLARKE, of Henry. I think the number given to the counties ought to be at least one to every township, besides one to be kept at the county seat. Every organized township will expect one of these volumes, and those that are disappointed will think it is hard they cannot get it. There will be a great deal of dissatisfaction created in that way. We ought to have printed enough fully to supply every county and every town in the State.

Mr. MARVIN. I do not wish to take up much of the time of this convention. I am in favor of a certain number going to the counties, not for the purpose of getting it into every officer's hands, but that a certain number may be held in a location where they can be referred to. For instance, if one or two copies are placed in a public office in the county seat, all could go there and learn what we have done. And if it is the desire of members, I would place them in the township, that every man in the township might have the privilege, when an occasion calls for it, of looking over these journals.

Another thing I did not fully understand. The suggestion was thrown out here that members be required to distribute a certain number of these debates. I suppose we are morally bound, without any such resolution, to distribute all except one copy. If these were to be distributed to members as private property, to be sold at pleasure, I should vote against it all excepting for one to each member; but I suppose it must be understood that there is to be a distribution.

Mr. TRAER accepted Mr. Clark's amendment.

The question being taken upon the amendment as modified, to strike out "five" and insert "two," it was agreed to.

Mr. CLARKE, of Johnson. The resolution provides for sending one to each prosecuting attorney. I move to strike that out. We have abolished the office of prosecuting attorney.

The motion was agreed to.

Mr. TODHUNTER. I move to strike out one hundred and twenty dollars and to insert two hundred dollars, for the indexing and superintending of the printing. We have voted two hundred dollars to the secretary for copying the journals and placing them in the hands of the secretary of state, which is not, I think, half the labor we require of our reporter in going to Davenport to read proof, to superintend, and to index this whole report of the debates. It seems to me that one hundred and twenty dollars is too little. It is much less than we have voted to our secretary for making out his report of the journal, which when printed, we are told will only make some one hundred and fifty pages. If that is the case, one hundred and twenty dollars is certainly not a sufficient

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amount to be paid to the reporter for going to Davenport to read proof and to index the debates. The publisher told me yesterday that it took him about three hours every morning to read proof. It is manifest that if that is the fact, one hundred and twenty dollars must be too low a compensation. Mr. Lord informs me that he thinks it is too low. We have imposed too much upon him to require him to go to Davenport, and to remain there till this is all printed, for one hundred and twenty dollars. He would not get more than one dollar and fifty cents or two dollars a day for his work. We should take these things into consideration and not be niggardly in our appropriations.

The motion was agreed to.

Mr. CLARKE, of Johnson, moved the following resolution as an amendment:

"*Resolved*, That it be made the duty of the secretary of state to distribute the debates of the convention, as provided for in the foregoing resolution, and that he be paid for such distribution the sum of —— dollars."

Mr. TODHUNTER. Have we not provided that the secretary of this convention shall distribute them?

Mr. CLARKE, of Johnson. The distribution of the constitutions and the other journals has been given to the secretary, by a resolution now in the hands of a special committee. But the debates when printed will come to the secretary of state, and will have to be distributed by that officer as the laws and journals of the General Assembly are distributed. The General Assembly always make provision for the distribution of the journals and laws passed during the session, and they generally make an appropriation in bulk. These books when printed and delivered to the state, will have to be sent out by teams, for they cannot be sent through the mails. I do not know what the state has been in the habit of allowing the secretary of state for this duty of distributing the laws and journals; but talking some weeks ago with an ex-secretary of state, Mr. McCleary, he told me that the amount allowed had never paid the expenses of doing it. They have to hire a team and send it into all the counties of the state. I think the legislature has generally allowed about four hundred dollars for this work. But as that has never paid expenses, I will propose, in order to get the subject before the convention, that the blank be filled with five hundred dollars. These books will be bulky, especially if they should turn out to be in two volumes instead of one, as the report contemplates. The resolution provides that if the number of pages shall exceed twelve hundred, it shall be divided into two volumes; and in that case of course the expense of hauling and delivering will be greater. I have no particular interest in the matter. I merely wish to adopt a proper sum.

Mr. GOWER. I have some scruples about giving the five hundred dollars. For my own part I am perfectly willing, so far as my county is concerned, to receive the copies for Cedar county here, or at Davenport, or at Muscatine, or at any place where they can be delivered without expense to the public. And it strikes me that other members might make arrangements to have their copies forwarded to them. I would rather be at the expense personally for our own county, than that the state should be taxed five hundred dollars for the distribution. This convention will make a large bill at any rate, and I would much rather tax myself than to increase it by five hundred dollars. I do not know how other members feel about it; but it strikes me that I would rather pay the expense of distributing myself.

Mr. CLARKE, of Johnson. In order that there may be no mistake about it, I move to recommit the whole subject, so that the committee may make inquiry as to the regular price which has been paid for such distribution. I move to refer to the select committee which has had this report under consideration.

The PRESIDENT. The Chairman of that committee is not here. There is a standing committee on expenditures.

Mr. CLARKE, of Johnson. I have no objection to its going there; but the whole report covers other matters to be examined and put into shape, and I should prefer that it should go to the same committee. There are two of them here.

The motion to refer was agreed to.

Location of the Capitol and University.

The artisle on the location of the capitol and university was then taken up on its second reading; and read as follows:

"The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State University at Iowa City, in the county of Johnson."

Mr. GOWER. I will offer an amendment, that the section be so changed as to submit the question of the permanent location of the capital to the people of the state; and I should be glad if the secretary would put the amendments in the proper form. This is a question upon which I have thought much, and I have some views in relation to it which I would like to present.

I think the capitol of a State, as well as al other public conveniences, should be located by the people—say school houses, town houses, court houses, and State capitols—I think when done by the General Assembly, the same error arises, that has been urged on this floor against special charters, viz: the benefit of the few at the expense of the many. And I have seen in reality, with reference to our capitol, what our friend from Alamakee [Mr. Clark,] proved in reference to the General Assembly when fixing county boundaries, viz: that he would wake up some morning and find himself in another

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county. I have truly waked up twice during my short stay in Iowa, and found the capitol moved over one hundred miles off, and without any expression of the people for that purpose or object.

Now I desire to give a short history of our capitol, as it has come under my own observation. First, I learn that it was located here January 21st, 1839 It was then removed to Monroe City; I think in 1847; but the act became so obnoxious that it was speedily repealed. And probably no other serious disaster befel the people than lightening their treasury, perhaps to the tune of twenty thousand dollars. Next came the act of our own General Assembly for the removal of our capitol; approved January 25, 1855, which, I think, was done without a petition from the people, and without the knowledge or consent of seven-eighths of them.

Now I want to consider the consequences of this removal, and the means used. I notice by my abstract that seven-eighths of the population of Iowa is east of that location—and the present location is very near the centre, therefore the majority were not accommodated by the change—and did not ask or desire it. Now why was it made, and what induced that General Assembly to pass that act? I think all will agree with me that it was the selfishness of the few. And what were the means used to induce that General Assembly to pass that act? I believe, gentlemen, I have it in my power to satisfy you and posterity, that it was money, town lots, and oyster suppers. Now if it was procured by bribery and fraud, and thereby the people of this State were wronged and discommoded, and their legislators corrupted, shall we justify it, and thereby encourage such corruptio ; or shall we say, that the people have a warm interest in this, and they shall settle the account?

We had from Cedar county two members who voted opposite all the time on this removal—they were both political, and I supposed personal friends of mine. I exerted myself for their election. When the removal question was sprung, our opposing member wrote me that G—— would support it. I came to see him; he declined advising me of his intended course, but said Iowa City did not merit it, for they charged members five dollars per week for board. I told him his constituency did not expect it of him to vote for removal, and would condemn such a course. It seemed an unpleasant subject to him, and I left him. He voted for it, and how do you think he settled the account with us? Do you suppose he returned to receive our blessing of "well done, good and faithful servant?" No, gentlemen, he ordered his family out of our county before the adjournment of that General Assembly, and we next heard of our representative that he was *en route* for the new capitol, where I believe he is now living, on a portion of the new capitol grounds; and my constituents believe the purchase was his faithlessness to our interests, when his course meets our condemnation. I have examined the act providing for the removal, which, I think, was improperly obtained, and also the evidence of the compliance as appears in the secretary's office. And I have not full confidence that the State is there guaranteed what they have a right to expect by the vote.

I now ask the secretary to read the letters which I will send to the chair.

The secretary read the letters as follows:

"LYONS, Feb. 6th, 1857.

"ROBERT GOWER, ESQ.—

Dear Sir: Yours of the 31st ult. is before me. I am satisfied that the votes of members were bought up two years ago to carry through the bill for the act removing the seat of government to Fort Des Moines. I could not specify any particular case of the kind now; indeed the evidence of the fact at the time was circumstantial. Care was always taken to prevent me, and others opposed to the removal, from knowing what influences were brought to bear. I do, however, know of some who turned some remarkable somersets in a short time, but I was left to guess the cause.

* * * * *

"Yours truly,

"J. J. MATTHEWS."

"MARIA, Feb. 7th, 1857.

"HON. ROBERT GOWER—

Dear Sir: Yours of January 31st was received on my return from Vinton. In reply permit me to say, it will be impossible for me to give any information or particular facts of the influences connected with the removal of the capitol. I have no doubt but what there was a combination brought about by improper influence with some members, which accomplished the removal. My position on the question of removal being so well known, as a matter of course, precluded me from obtaining a knowledge of the secrets, if there were any. There were a great many rumors at the time, of the truth of which I have no personal knowledge.

"Yours respectfully,

"J. M. PRESTON."

"IOWA CITY, Jan. 15, 1857.

"HON. ROBERT GOWER,—

"Dear Sir: Your favor of to-day is before me, requesting a statement of such outside influences as came under my observation, calculated to bear upon the question of removing the capital of this State from Iowa City to Fort Des Moines, during the session of 1854–5. In answer to your communication, I would say that I was a member of the House of Representatives when the act, removing the capital, passed the legislature. A large delegation from Fort Des Moines and other parts of the State were present during a large portion of the session, or until the act referred to became a law. The object

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of gentlemen from Fort Des Moines seemed to be to secure the vote of such members as were considered doubtful, in favor of said act; to accomplish which they frequently spoke of the value of lands in and about Fort Des Moines at that time, and what they would bring after the location of the capital in that place. I was frequently told that if I should purchase a block of lots in Fort Des Moines, at a merely nominal value, I could sell at an advance that would ensure greatly to my pecuniary benefit, (i. e.,) if the bill should pass, &c., &c. Oyster suppers were provided in abundance to those doubtful members, &c., &c.

"You request me to state whether I had any interview with A. C. Graham, member of the House of Representatives from Cedar county, upon the subject. In the early part of the session I had considerable conversation with him as to the propriety and probability of the measure, and we assured each other that we would oppose the passage of such an act with all our ability. Subsequently I heard that he had promised the Des Moines delegation to vote for the bill, and that he was intending to remove to Fort Des Moines early after the close of the session; also that he had purchased a block of five valuable lots for five or ten dollars. I went to the seat of Mr. Graham and asked if this was the case. In answer, he said it was true; that Iowa City was a bad place for the legislature to hold its sessions; that the hotel-keepers were trying to shave the members out of all they could; that he was intending to remove to Fort Des Moines, and that property would be very valuable if the act passed and became a law. How much the block of lots bought at a nominal value had to do with voting, I cannot say. But I know full well that his constituency believe that his vote was given more to benefit himself than them. I know, also, that fearing to meet them at the close of the session, he directed his family to move to Cedar Rapids and await his return after the adjournment of the legislature. I would just say that the lobby members from Fort Des Moines and other portions of the State were strangers to me, having never seen them before or since that time.

"Very truly yours,

"AMOS WITTER."

Mr. GOWER resumed. Mr. Matthews was senator from our district; and Mr. Witter was a member from Scott. I think it is pretty evident that the passage of this act was procured for the benefit of the few, and not for the general good; that it was passed not for the benefit of the people, but for the benefit of the few, and in consequence of their exertions outside. It operates exactly against the principle which we have been urging with regard to special charters. We have been urging that we should not have special charters for the few. But when you create a special act, removing that which is a benefit to the people generally, for the benefit of a few individuals, it is certainly a parallel case to a special charter. Is it not very plain that that has been done in this case? Now I do not say that Des Moines is not the best place for the seat of government. It may be the best thing we can do to locate it there; but I do say and wish to call attention to the fact that the removal has not been fairly accomplished thus far, and that in locating it, we must look to the best interests of the whole people, and not to the action of the last legislature. I do not think that the fact that the legislature have removed the capitol to Des Moines, is to be any guide to us at all. It ought to have no influence upon our action here. If we think it is for the good of the State to locate the capitol there, let us do it upon its own merits. But let us not do it because somebody has smuggled an act through for their own benefit. That is my position upon the subject.

Again, I do not want such legislation to have any countenance in our state. Every time that I discover it, I am desirous to assist in getting it upon the record, for I hope by the exposure to accomplish that. I know well that I have no prejudice against that place, any further than has arisen from their improper influence upon the legislature, and no prejudice against any person living. My only object is that the member from Cedar may have an opportunity of getting this upon the record. That is the way I feel about the matter. I offer the amendment merely to bring the matter before the convention; not that I wish to preclude definite and final action, if the convention think that that is really the best locality. If Iowa City is the best locality, then let us fit it here. If Des Moines is decidedly the best, let us locate it there; or if there is any other quarter, let us leave it to the people to decide. But let us not be influenced in selecting a location by the act of the legislature, when we have good reason to believe that that act was the result of outside and improper influences.

Mr. CLARKE, of Henry. I, for one, am decidedly in favor of the proposition offered by the gentleman from Davis [Mr. Palmer]. I have been in favor of locating both of these institutions, from the time I first came into this convention, and I was in favor of it before. We have all of us had some experience of the evils resulting from having a capitol on wheels. If we will only look back to the difficulties which have afflicted other states, look to Michigan, and other states of this Union, where this vexatious question in regard to the location of the capitol was year after year before their legislatures, we will see enough to satisfy us that the convention is the place to settle this matter, as it will then go to the people, and they will vote directly up it. Besides, the people have already expressed themselves in regard to the location of one of these institutions, the State University. It has generally been conceded, wherever I have heard any opinion expressed upon this subject, that the moment the capitol should be removed from this place, the State University was to occupy these buildings, and be

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permanently located here. I believe that expression of opinion is almost universal throughout the state.

I believe the great majority of the people of Iowa City, that ninety-nine out of a hundred in this county, would prefer to have this question settled here, of the permanent location of the capitol and the university, by having an understanding that these buildings should go into the possession of the University. It would require a great length of time to obtain an appropriation, and expenditure of money, to erect buildings at any other point suggested by other gentlemen, that would be as suitable as is this building for the purposes of the State University. If the University does not occupy this building, I do not know to what use it will be devoted.

That the capitol will be removed from this city is a question that has been already twice decided. It was once located in the place indicated by the gentleman from Jasper [Mr. Skiff], by commissioners appointed by the state. But a great cry was raised against that location, and it was abandoned. I have no doubt that the commissioners honestly discharged their duty. But because certain speculators got wind of that location, and obtained possession of the town lots, the outsiders, who could not get any, cried out "fraud" against the commissioners, and nearly ruined some of them, and kept them out of their pay for some time. They also got an act passed repealing that location, and the capitol question was all afloat again.

The attention of the people was again called to this matter, and they sent their representatives up to the legislature, and the question was again presented to them. They have settled that the capitol shall be located at Fort Des Moines. If I was not a resident of this State, and had no possible interest in the settlement of this question, and was called upon to examine the map of the State, with the knowledge that I have of the present condition of Iowa, and with my present belief of what her future will be, I would put my finger upon Fort Des Moines, and say to the people, there should be your seat of government. And I think that the same verdict would be given by ninety-nine out of every one hundred who know the condition of Iowa, its geographical situation, its natural resources, and where its great commercial center will be.

I believe the legislature has acted wisely in locating the capitol at Fort Des Moines. I believe the majority of the people of this State desire that it shall be permanently located there. And for the very reason that I hear some gentlemen upon this floor urging reasons why the capitol should be located at some other point; for the reason that I think I perceive a spirit now being awakened here to create a prejudice in the minds of the people against the action of the legislature locating the capitol at Fort Des Moines, and because I believe if we do not settle this question by a constitutional provision, it will hereafter be a trouble and a vexation to the people of this State—for all these reasons, I think we should settle the question of the location of the capitol, beyond the reach of partizans, and all others who may have an interest in getting it located at some other point. I would therefore say here, in a constitutional provision, that the capitol shall be permanently located at Fort Des Moines. I believe the people of this State are at this time generally satisfied—I mean those who are not pecuniarily interested in this matter—that that should be the point determined upon.

The question has been determined upon by the legislature, it is true; but if it is not acted upon here, and their decision confirmed by a constitutional provision, the question may be agitated again, and become a foot-ball in the legislature from year to year—a bone of contention between the various localities in this State which may set up pretensions to consideration in this matter. I am in favor, therefore, of putting an end to this strife and contention by a provision in this constitution.

Mr. GOWER. I wish only to remark that at the time of the passage of the act locating the capitol at Fort Des Moines, I was in this city, and it was currently rumored about here, that the insane asylum was to be located in Henry county, and the capitol in Polk county. I would ask the gentleman from Henry, [Mr. Clarke], if that was not the understanding at the time?

Mr. CLARKE, of Henry. There was a great deal of talk about the matter. It was said by some that the insane asylum should go to Fairfield; by others, to Oskaloosa; and by others still, to Mt. Pleasant. And I believe that some even wanted it to go to Keokuk, in Lee county.

Mr. GOWER. How did the respective members vote?

Mr. CLARKE, of Henry. We all understand perfectly well how local interests operate in such cases; how compromises may spring up, and concessions be made. Whether there was anything of that kind in this case, I do not know. And if I did know, it would not alter my opinion at all upon this matter. The only question is whether justice was done.

Mr. GOWER. That is the question.

Mr. CLARKE, of Henry. If persons did not do wrong, what need is there of getting up here and arraigning the motives of members who voted upon this subject? I do not believe there was anything of corruption in the location of the capitol. I believe such an idea as that is sheer nonsense. Long before that act was passed, I believe a large majority of the people of this state were in favor of the location of the capitol at Fort Des Moines. I do not believe it required anything like log-rolling to get an act passed locating it there. It may be that the people or representatives of Henry, perhaps, endeavored to get the insane asylum located in Henry county. But that Fort Des Moines needed to make any interest in any way to get the capitol located there, I have no idea. If there

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was any sharp practice here, Fort Des Moines was practised upon, instead of practising upon others. I believe she stood here strong enough to carry her measure, independent of any other measure before the legislature. But I do not know, and I will not say, that Mount Pleasant did stand here strong enough to carry her measure through, independent of any other interest.

Mr. HARRIS. It was generally understood, four years ago, that the members for Henry county were in favor of having the capitol located at Fort Des Moines, when there was no question in regard to the location of the insane asylum.

Mr. EDWARDS. I observe that the report of the committee on schools and education has been printed and laid upon the tables of members. I think we shall not be benefited by any further discussion of this question to-day; and I, therefore, call for the previous question.

Mr. CLARK, of Alamakee. I hope the previous question will not be ordered.

Mr. CLARKE, of Johnson. I desire to say a few words upon this subject.

Mr. EDWARDS. I will withdraw my call for the previous question.

Mr. CLARKE, of Johnson. I offer, as a substitute for the amendment of the gentleman from Cedar, [Mr. Gower,] the following:

"The question of locating the seat of government at Fort Des Moines, and the State University at Iowa City, shall be submitted to the people of this state as a separate proposition, at the same time that a vote is taken upon the adoption of the constitution; and if a majority of the votes cast at said election shall be in favor of said proposition, the said institution shall be so located."

I rise merely to express my surprise at the sudden change of sentiment upon this subject, manifested by members of this convention since last Friday or Saturday. It will be remembered that the report of the committee on miscellaneous subjects came up for our consideration at that time. That committee had reported in favor of locating the State University at this place. And the argument against that proposition, and in favor of striking it out entirely, was, that if we located by a constitutional provision, one of these institutions, it would have the effect of driving votes from it, and must jeopardize the success of the constitution. The gentleman from Warren, [Mr. Todhunter,] the gentleman from Hardin, [Mr. Winchester,] and every gentleman upon this floor who expressed any opinion upon this subject, took that ground. The result was that that proposition received hardly a respectable vote in this convention.

With the action of the convention upon that proposition I was perfectly satisfied. I did not choose to stand up here and manifest a disposition upon this question that would disturb the harmony of the convention. I supposed, when that vote was taken, that these questions were settled, and this subject was disposed of, so far as the action of the convention was concerned.

But I find that there has been a sudden change in the minds of members of this convention upon this subject, and it is that which surprises me. I am at a loss to discover the cause of this sudden change. I have heard no reasons given for it. It is true I have been approached, and felt upon this subject, since that vote was taken. Whether this change has been produced by outside influence, by persons in power, and persons out of power, I do not undertake to say. But that there has been some very mysterious influence brought to bear upon the minds of members of this convention, must be very apparent to all.

Mr. EDWARDS. What was the proposition to which the gentleman from Johnson [Mr. Clarke,] refers?

Mr. CLARKE, of Johnson. It was a proposition in the report of the committee on miscellaneous subjects, providing for the permanent location of the State University in Iowa City. I may say in connection with this matter, that the whole subject of locating these institutions was discussed in that committee, and very fully discussed. I stated to the committee what I have stated here, that while I desire to see this location, and to see my constituents fairly dealt with upon this subject, I was not disposed to press it, if it would create division and dissention in this convention. And although I had prepared propositions in relation to these subjects, that I thought were calculated to avoid this difference of opinion, yet for the sake of not casting a fire-brand in this convention, I did not present them.

There has been a very sudden change produced in the minds of members of this convention. Whether it has been produced by outside influences, or by the hope of gain, in some shape or other, of a local nature, or of a personal character, I do not pretend to say. But I desire to call the attention of gentlemen from the northern part of this State to this proposition. I would say to them, that if this proposition is carried, it will be for the purpose of locating the greater number of these institutions south of the Iowa river. We have the lunatic asylum located at Mount Pleasant. There has been a most extensive building commenced there in violation of law; as the commissioners themselves say, that they did it upon their own responsibility. Yet that is all right, for it seems that whatever is done south of the Iowa river, whether by authority of law or not, is all right. The penitentiary is located at Fort Madison. And now the capitol of the State is to be located at Fort Des Moines.

Now I would ask gentlemen from the north, where are the other institutions to be located? Have they any assurance that any portion of the State north of the Iowa river will be remembered at all, in this matter? Or is this part of a combination, part of a project to locate all these institutions in accordance with the attempt made

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in the legislature this winter? It does seem to me that there are other parts of the State of Iowa, that should have some rights in this matter, and whose members upon this floor ought to look after the rights of their constituents.

If they want to settle this thing, well and good. I do not know, when we come to vote upon it, whether I shall vote for or against this proposition. But I tell gentlemen of the northern portions of this State, that if this proposition is carried into effect by a combination, they may look for the location of the other institutions, by the next General Assembly, south of the Iowa river; in other words, that the south is to have all of these institutions, and the north none of them.

I have a word or two to say about the institutions more immediately in question here. I shall not say it from any personal consideration; nor because I happen to live in Iowa City. I say now, as I said the other day in committee, that if we were now called upon to fix the seat of government, and none of these institutions were located at all, I should contend for their location at the seat of government, wherever that might be. If it was determined to locate the seat of government at Fort Des Moines, and none of these institutions had been located, I would vote to have them all located at the seat of government.

But that policy cannot now be adopted. The lunatic asylum has been permanently located, and an extensive building commenced. The penitentiary has been located, and the building erected. The capitol is proposed to be located at Fort Des Moines. To that I, and the people I represent, have no particular objection. But if the State University is to be located here at Iowa City, I do say that the institution for the deaf and blind should be located where the university is located.

We are about to establish a board of education to take charge of the educational interests of the State, and these two institutions—the university, and the deaf and dumb asylum—should be under the charge of that board, because they could more conveniently devote their time to the superintendency of these institutions than any other body of officers we might create.

And there is another reason for that. Every man knows that these institutions depend for their support and encouragement upon the interest that the people of the State take in them. They ought, therefore, to be located at some point to which the attention of the people will be directed for some other purpose, than merely to visit and observe these institutions. If the university remains here at this point, at its annual commencement celebrations you would have people from all parts of this State, and from other States, assembled here. And if the other institutions are located here, and the people thus brought together are allowed an opportunity to visit them, you will thereby excite in them an interest for them.

If gentlemen are willing in this matter to look, not at local consideration, not at local interests, not to be controlled by outside influences brought to bear upon them here to govern this matter—if they will look to the interests of this state alone, and locate those other institutions where the university is located, I am prepared to vote for it, and I am prepared to go a step farther and say that if this convention will take the responsibility of removing this university from this place, and locating that with the other institutions at some other point, I will vote for it; although in these matters my individual feelings and preferences will have some influence upon me, I am not governed by them alone. I believe I am governed in the location of these institutions by a desire to promote their prosperity and success.

There is another objection to adopting this proposition at this time. It is true these two institutions are now located by law. But there is another fact which should not be forgotten, and that is the fact stated by the gentleman from Cedar, [Mr. Gower,] that the present location of the capital at Iowa City, is nearer the center of the population of the state, is better suited to the convenience of the great majority of the people of the state of Iowa, than if it were now located at Fort Des Moines. All that the people of Iowa City have ever asked; all that I ask upon this floor for them, is that the capitol may remain here until the line of internal improvements, now being constructed to Fort Des Moines shall have been completed, so that the people may have means of getting to that place more conveniently than they can at present. I think if this convention or the general assembly should permit the capitol to remain at Iowa City, say for five years, until the rail road from this place to Fort Des Moines, and the contemplated railroad to the Des Moines river, and the one from Burlington west, shall have been constructed and put in running order, there would be no objection upon the part of the people of Iowa City, and of this part of the state to yield up the capitol to Fort Des Moines. I think that is their feeling upon this subject. I do not think the people here expect or desire that the capitol shall remain here permanently. Such I know is the expression of the leading men of our community. But we do object to being dragged away from this place to Fort Des Moines, when there is no convenient mode of getting there—not for a majority, but even for a minority of the people of this state.

Now to obviate the difficulty which gentlemen have indicated here, that to take no action upon this matter, or to take action upon it, will effect votes for this convention; I propose as a substitute for the proposition of the gentleman from Cedar, [Mr. Gower]—which I understood him to accept, that this be submitted to the people as a separate proposition, and made an outside issue; and if it be true, as the gentleman from Henry, [Mr. Clarke,] has said, that the mind of the people have settled down in favor of t

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proposition, it seems to me there can be no objection to the course I have suggested. If the people are in favor of the location proposed in this proposition, they can carry it if submitted to them as a separate proposition, and you obviate the danger of making votes against the constitution itself. I therefore move the proposition I have indicated as a substitute for the original proposition of the gentlemen from Davis, [Mr. Palmer.]

Mr. CLARK, of Alamakee. I am opposed to this whole matter. I do not believe we should meddle with this subject in the constitution at all; and I must say, with the gentleman from Johnson, [Mr. Clarke,] that I am not a litlte surprised at the feeling I see manifested here this morning in relation to this matter. When some particular questions are brought up, proposed by persons who are friendly to some particular measures, certain gentlemen upon this floor appear to be horror-stricken in a moment for fear, as they say, that we will load the constitution down and sink it; that so much freight will be put on board the constitution, that it will never reach the harbor; that we will put so many things in it that it will be defeated before the people, when it is submitted to them. And yet I notice in regard to many of that same class of gentlemen in this convention, when any particular measure is brought forward that favors their immediate localities, or their particular sections, that this idea of overloading the constitution never seems to be thought of by them.

Now what is the necessity for having this subject in the constitution? Can gentlemen give us any reason for it? Is there a member upon this floor who can give a good reason why we should do this? Can he satisfy me that there is any existing reason why this should be put in the constitution? If he can do so, it may influence me in the vote I shall give upon this proposition. But I have heard no reason yet assigned, which to my mind, is a good reason.

But there are a great many reasons, to my mind, why this thing should not be put in the constitution. What is proposed to be done? Gentlemen claim that the legislature has already settled this question, and located the capitol at Fort Des Moines. Is not that sufficient? Why no, say they; we want to put it into the constitution, so as to prevent log-rolling in the legislature.

Now let us examine this question for a moment. How is it? It has been pretty strongly intimated that log-rolling procured the location of the capitol at Fort Des Moines, in the first place. And now the gentlemen who are endeavoring to get this put in the constitution, are in favor of cutting off the right arm that carried the capitol to Fort Des Moines, for fear it may carry it away again. But this is not my most serious objection to this proposition.

But a few days ago, there was a proposition before this convention, for permanently locating the state university at Iowa City. It received but little favor at the hands of this convention. It was frowned down pretty generally, and could not be carried. And why? Because it would load down the constitution, it was said. There was no necessity for putting it in the constitution; it would endanger its adoption by the people.

What do gentlemen say now? These gentlemen bring forward this same proposition, but with an additional measure, making a double load that they propose to put upon the constitution. And we find some of these very members who were afraid of the single load the other day, now in favor of the double one, without the least fear that this constitution will be weighed down by it. I am unwilling to believe that a member of this convention can be influenced by a system of log-rolling here. But I do say that the suggestion forces itself upon my mind irresistibly, that this change must have been produced by some influences, unaccountable to me. And if the legislature can be approached and corrupted, and the location of the capitol endangered by a system of log-rolling, I am not quite sure but what this convention can be approached in the same way. If gentlemen come forward now and ask to have this measure incorporated into the constitution, upon the ground that the legislature may be corrupted, and that log-rolling may be carried on there, I would ask if it is not just as fair and reasonable to infer that log-rolling may be practiced in this convention? I ask this one simple question. How can they account for the change that seems to have come over the spirit of the dreams of some members here?

I have the honor to represent in this convention, a portion of the northern part of this State. I needed not the reminder of the gentleman from Johnson, [Mr. Clarke]—although I take it kindly from him—of the injustice that has been done to the northern part of this State, in the location of our public buildings, and also in the selection of our public officers. The south has obtained everything. At the time the capitol was located at this place, it was probably all right that it should be so located; to that I have no objection, or to its remaining here, or being located at Fort Des Moines, and remaining there until the people, through their legislature, see fit to change its location. At the time it was located here, it was probably an equitable location, one that accommodated the people better than any other that could have been made.

Now about this proposition to locate the capitol at Fort Des Moines. Where is Fort Des Moines situated? It is situated but three tiers of counties from the southern boundary of the State, while seven tiers of counties lie to the north of it; it is within the edge of the fourth tier of counties from the southern boundary. Now those who wish to get this matter into the constitution, come in here and say that the state university shall be located permanently at Iowa City, which is far south of the geographical centre of the State. At the same time that they

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bring that proposition forward, they bring forward another one to make Fort Des Moines the seat of government for this State, making Fort Des Moines lift at the wheel for Iowa City, and Iowa City lift at the wheel for Fort Des Moines. Both of these places are south of the geographical centre of the State.

If this arrangement is entered into, it will result in serious inconvenience to us in the northern part of the state. WLether right or wrong, there will be serious dissatisfaction felt there if this is incorporated into the constitution, and it will have the effect of arraying a host of voters in the northern part of the state against the constitution.

Now I am opposed to interfering with this question at all. But if we must do something in regard to it, let us adopt the proposition of the gentleman from Johnson [Mr. Clarke], to submit this question as a separate proposition to the people. so that we may not endanger the constitution.

Look at the northern part of the state. In order to get to Fort Des Moines, we must go first to Dubuque, a distance, perhaps, of two hundred or three hundred miles, and from that place we must come here. Or, with the weather as it has been this winter, we will be compelled to go over into Illinois, and around that way. We have fixed the mileage in this state to be computed by the nearest traveled route; rather penny-wise, in my opinion. Now if there should happen to be a time in the year when the people could manage to travel through from the northern part of my district to Fort Des Moines, it would be contended that our members shall not have their mileage computed by any other route, though they may be compelled to be at the expense of traveling in the winter some five hundred or six hundred miles to get there. Now this is an inconvenience to which we do not feel disposed to submit.

But if the legislature has already located the capitol at Fort Des Moines, I am willing to leave it there until the people see fit to remove it. The gentleman from Henry [Mr. Clarke], however, says that he wishes to settle this question, because he does not want to have a capitol on wheels. I would say to that gentleman, that the best way to take the capitol off its wheels, is to locate it somewhere near the geographical centre of the state, so as to accommodate the people of the state; locate it where it can be approached from all points alike, with the least inconvenience. The very reason why the capitol is now on wheels, and why it will remain on wheels, is because it is out of its proper place.

When the capitol was first located here at Iowa City, there were but few people in the northern part of the state. But gentlemen must remember that that portion of our territory is filling up very rapidly, and in a very short time they will be able, not only to speak of, but to demand their rights, upon this subject. And they will soon have the power to make themselves heard in regard to their demands. And if you succeed in getting this measure incorporated into the constitution, you will not thereby render the capitol any the less a capitol on wheels. The power that is vested in the people to locate their seat of government, will not thereby be wrested from them, for they can and will exercise their power upon this subject, if they shall deem it necessary to do so. And in a few years, if the capitol is located at Fort Des Moines, and it does not accommodate the people of the state, gentlemen will find the capitol on wheels again, and the constitution with it.

Then why seek to break this constitution down by putting a provision in it which will array the voters of both parties in the northern part of the State against it? I am opposed to anything of the kind. I believe it is wrong in principle for this convention to attempt to locate these institutions even where they now are—to attempt to locate them anywhere. I do not believe we were sent here for any such purpose. I do not believe the wishes of the great mass of the people of this State are in favor of our doing any such thing. Those who live in or near the places to be affected by it, may be in favor of it; but the people, as a general thing, do not desire it.

I am opposed to it *in toto*. Yet, if we must act upon it at all, let us do so in the manner proposed by the gentleman from Johnson, [Mr. Clarke.] Let the people have an opportunity to vote for the constitution as a whole, and against this measure if they desire to do so. I am opposed to side issues, as a general thing. But if we must have this matter presented in the election in any way, let us have it in the shape of a separate proposition.

If the great thoroughfares of the State were in such a condition that we could travel any ways expeditiously and comfortably to Fort Des Moines, this would not be so objectionable The time may not be far distant when we may be able to do so. But, after all, the great objection to the location here proposed, is, that it is too far away from the center of the State—from the place where the people of the State will finally require it to be located. It is in direct contravention of the wishes of a large proportion of the people of the northern part of the State. The majority of the people of the southern part of the State may be in favor of locating the most of these institutions where they are now located. But I do not believe the adoption of this provision will secure a large number of votes even in the southern part of the State. Those who are opposed to the constitution will vote against it, even with this provision in it; those who are in favor of it, will vote for it without it; while in the northern part of the State, a large number of voters will be arrayed against the constitution if this provision is inserted in it.

I do not believe it is just and right to incorporate this in the constitution. I do not believe there is any necessity for having it there, and

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for these reasons I shall oppose its being put in there. If there was any serious necessity for it; if there was any crying necessity for it, in which there was a principle involved of such importance as to justify us in hazarding the adoption of the constitution; if there was a necessity that would override the question of expediency; if there was something at stake here besides mere dollars and cents, then there might be some plausibility in this measure. Those who urge this proposition here, will excuse me for using these terms, for though they may deny that they do not urge it from any selfish considerations, yet I cannot view the matter in any other light.

What is to be gained by adopting a provision in the constitution, locating the capitol at Fort Des Moines? If the people want it there, is it not already located there by legislative enactment? If they want it there they can keep it there. If they are opposed to its remaining there, then let them have the right of taking it away from there. If they are opposed to its being there, the putting this provision in the constitution is nothing but an effort to forestall the wishes of the people. I am, therefore, opposed to the adoption of this provision of the constitution.

Mr. EDWARDS. It appears to me that the permanent location of the seat of government, by a constitutional provision, would be a desirable object to be attained. The reasons that induce me to support the proposition submitted here by the gentleman from Davis [Mr. Palmer] are these: I am satisfied that within the last year or two public opinion has settled down upon Fort Des Moines as our future seat of government. In obedience to that public opinion, a law was enacted, locating the capitol at that place. Now it appears to me that if this convention will satisfy this public opinion, and endorse this action of the general assembly, we will not only be carrying out the wishes of the people, but be giving a quietus to this subject.

It is certainly to be deplored that the seat of government should be left in an unsettled and transitory condition. For what reasons have public opinion and legislative enactment decided upon having the seat of government at Fort Des Moines? They are reasons based upon every principle of justice. It is because it is as near the geographical centre of the state as the nature of the case will admit, taking all the circumstances into consideration. The gentleman from Alamakee [Mr. Clark] objects to this location, because it would subject him, and those living in the northern part of the state, to increased trouble, expense and travel to get to the seat of government. Now, if it is unjust and unfair to subject him to this increased travel and inconvenience, will not the objection hold equally good upon the other hand in relation to the gentleman from Mills [Mr. Solomon], and the gentleman from Pottawatamie [Mr. Price], and persons from those counties who have business at the seat of government? I would ask if the gentleman from Alamakee [Mr. Clark] would have any farther to go to transact his business, in going to Fort Des Moines, than would the gentlemen from Mills and Pottawatamie, and others from the western part of the state? Is it not a desirable object that the seat of government should be so located that even-handed justice may be meted out to all throughout the whole length and breadth of the state? I mean in regard to geographical position.

Because the state is now young and thinly populated, is one very strong reason why this question should be decided at an early day. It should be known to the people of this state that their capitol is permanently located, in order that all the improvements and buildings necessary for carrying on the several departments of the government may be provided for. As public opinion and legislative enactment have said that the capitol shall be located at Fort Des Moines, and as it is so near the geographical center of the state, as to be calculated to meet the wants and wishes of all the people, and to deal out even-handed justice to all portions of the state, it is asking nothing unfair nor unreasonable, that the seat of government should be located by a constitutional provision. And it appears to me that no gentleman should be arraigned for favoring such a provision here.

It is true that the eastern portion of the State has a more dense population than the western portion of the State. And if this question was submitted to the people as a separate and distinct proposition, aside from the constitution, the eastern portion of the State, having a large majority of the population, could defeat it. But I would ask gentlemen to ponder this subject well, and give it due consideration. I would ask them if they could even defeat this measure, would it be just to the western portion of the State, which is as rapidly filling up as any other portion of the State? Should that portion of the State be subjected to a travel of one hundred or two hundred miles beyond the center of the State, in order to accommodate the people in the eastern portion of the State?

There was a proposition submitted here the other day—I do not know in what shape it came up—to fix the state university permanently here at Iowa City, and let the capitol remain here for the next five years.

Mr. CLARKE, of Johnson. The gentleman is mistaken. There was no such proposition.

Mr. EDWARDS. I think I am not mistaken; that some such proposition was broached here.

Mr. CLARKE, of Johnson. Not in the report of the committee.

Mr. EDWARDS. The proposition came up in some shape, and I was opposed to it. I think this question should be definitely settled now. I believe if it is settled by a provision in the constitution, no votes will be lost to the constitution for that reason.

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It seems to me that the gentleman from Johnson, [Mr. Clarke,] in this matter has not been actuated by those generous impulses which usually characterize men when they ask for favors. I think if we are willing that this building, which belongs to the State, should be appropriated to the uses of a state university, that is as much as can reasonably be asked of us. All that we can ask is that the seat of government shall be located as nearly as possible in the geographical center of the State, so as to accommodate the people of all portions of the State.

And let me tell the gentleman that when he talks about influences brought to bear upon members in relation to this question, if he is not satisfied with the state university in his city, as far as the southern portion of the State is concerned, we are prepared to compromise the matter, and remove it to some place in the northern part of the State, and relieve the people of Johnson county entirely from any such institution. Now I think the gentleman ought to be satisfied, that the people of Iowa City ought to be satisfied, that the people of Johnson county ought to be satisfied, with what they have obtained, and be content to carry out the will of the legislature and of the people in regard to the location of the capitol permanently in the geographical center of the State.

If there have been any influences brought to bear upon gentlemen, to induce them to "change the spirit of their dreams," I will state here publicly and boldly, that I had no expectation that a proposition of this kind would have been brought forward, until it was presented here. But as it is here in its present shape, I am prepared to vote for it, believing that the people of the State demand it, and that it will also secure votes to the constitution. But the most important consideration of all is that this question should be settled now, and settled forever.

Mr. HALL. I have not given this subject much reflection and consideration. But I do not think this discussion, in the shape it has assumed, will be very beneficial to us. The speeches made here will read badly hereafter. It is bad history to go to posterity that we are making here. It appears to me that our debates here are beginning to assume the character and creditibility of a "Police Gazette," or a "Rascals' Directory." And if they go on much longer at this rate, the very fact that a man held a seat in this convention will be sufficient to strike a death-blow to all claims he may desire to get up for honesty and integrity of character. To denounce all those who have preceded us, and to try and condemn in advance all who may come after us—that seems to me the object that gentlemen have in view here. They get up here and undertake to give a history of the past. What if I were to do so? I might show that the seat of government was originally located in this city by a species of management that might not be very creditable to some gentlemen. We know who gave the casting vote, and how he was induced to give it, that brought the seat of government to this place. If it were a matter of any importance whatever, we could go on and examine the history of the controversy about its removal, and dig up many suspicious circumstances from the recollections of gentlemen who took an active part in that matter, and we might bespatter with the mud of aspersion a large number of other persons. But what would be the good of doing that? It should be forgotten, and I am disposed to let it rest.

Now I look upon this matter in this light. It is a fact, with which the public mind throughout the state is impressed, (with the exception of Alamakee county,) that this city is not the proper place for the permanent seat of government. So far as I am informed, that is the almost universal sentiment, except, as I have said before, in Alamakee county. This matter must be settled at some time. We must have a permanent seat of government that we can look upon as fixed and settled. That is policy. The question is, where shall it be? Public sentiment has already pointed out the place, and the legislature has responded to that sentiment.

I am not afraid of these imputations of bribery and corruption at all. They are entirely uncalled for. They have no terrors for me. And I have generally found, through life, that those persons who are so ready to assail and denounce others for being governed by improper influences, are themselves the most accessible to that kind of management.

Now there are but few persons who feel an individual interest in this matter. They look to the permanency of these institutions and the good of the state. That is the way the people throughout the state must regard this matter. All who are not carried away by captious feelings, or have some selfish interest in this matter, must view it in this light.

Is there a better time and place to close this controversy than the present? That is the first question to be answered. If we turn this matter over to the legislature it will be a subject of constant agitation there, and these institutions cannot flourish. They will not be what they ought to be, or what they can become, while this matter is unsettled.

So far as the seat of government is concerned, that is of minor importance in my mind. Here is the state university, with an endowment of many hundreds of thousands of dollars; means enough, with that kind of support and culture which it should receive from the state, to build all its necessary edifices, and educate a large number af the youths of the state. In what condition is that institution at this time? We have the money at interest, and are paying out five thousand or six thousand dollars each year; and where does it go? I believe that Des Moines has three institutions of learning, either of which is as high in respect to character and standing as the University of Iowa, which is endowed with seventy-two townships of land, sold, and the money out at interest. We have a catalogue of officers, of distinguished men, but

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they never come here. They reside away from here, but never come here to lecture in the institution.

This State University is but an idea yet. Now, locate that institution; place it where it shall remain permanently, and let the benign influence of this fund that we have, be brought to bear upon it. Let those gentlemen who have accepted professorships and offices in that institution, come here and use their attainments and abilities for the benefit of our youths. They will not come until there are means provided through which they can exert their useful influence; they will not come until preparations have been made and the youths of the State invited and collected here for their instruction. They will not come here and go into the little hovel that is all that the university has here.

You gain one year by the establishment of this university by a constitutional provision, and that is a great deal; you get its advantages one year sooner. Suppose you have doubled the money belonging to the university. Have you derived any benefit from it? Wherein? It is now being wasted, as we are all aware.

I have not given this subject much consideration; but it appears to me that we ought to pursue some course in order to give permanency and character to this institution, and those engaged in its management, in order that our people may know where to send their sons to be educated, and those who have charge of the institution may know what means they will have to prosecute this great work. It is time that something of this kind was done. We have lived long enough with merely the word "university" upon our statute book. It is time that we should do something, so that the university may go on with the means which it has, and use them for the purposes, and in the manner, for which they were intended.

The gentleman from Alamakee, [Mr. Clark,] undertakes to frighten us with the threat that the people of his portion of the state will vote against the constitution if you do not keep the seat of government for four or five years longer in Iowa City, and continue the university in a state of nonentity. It may be that his constituents are of that character; it is possible that they are. But I think they will take the sober second thought, and look upon the fact itself as of more importance than the mere declaration of it. I believe they will regard the establishment and permanency of this institution as of more importance than to have it in a continual state of fluctuation and indecision.

I will say candidly, that if I had my choice in this matter, I would never vote to have this university located in Iowa City. I believe the five sections of land in Monroe county are worth more than all Iowa City ever will be, so far as benefit to the university is concerned. You can build up a better neighborhood there, erect better buildings, and the people will more freely send their children there, than would be the case here, and looking forward to the many years that this institution will be the educational center of the state, I would rather have it go there than to remain here. But I am not going to set up my individual opinion against the expressed wishes of the people, and in a general squabble have no institution at all.

It is proposed to let this matter be submitted to the people. If that is done there will be a half a dozen contestants for each of these institutions. I can never consent to have the matter go the people as it is presented here. I do not want it presented to the people in such a way that they cannot decide upon any point they please, and have the question up in such a way that it would take ten years to settle it. The friends of the institution would not know what to do in the matter. They would see it upon the hustings all over the state, all mixed up with politics. The gentleman from Alamakee, [Mr. Clark], has already told you that it is now so mixed up with politics in his section of the state, that his people will forego all the benefits of the other amendments of the constitution, if this subject is incorporated in it. Now if we find this so "in the green tree, what will it be in the dry?"

There will be enough of people in this state who will vote for the constitution, if this institution is permanently located by a provision in it, even if others will forego all the benefit of the other acts on that account.

Mr. SKIFF. We want to adjourn to-morrow night, and start for home the next day, and we can do that if we will go to work, and not talk all the time. I therefore call the previous question.

Pending the call for the previous question,

On motion of Mr. MARVIN—

The convention took a recess until this afternoon at 2 o'clock.

EVENING SESSION.

The convention re-assembled at 2 o'clock P. M., and was called to order by the President.

The consideration of the article on the location of the Capitol and State University was resumed.

The pending question was a substitute proposed by Mr. Clarke, of Johnson, to submit the matter to a vote of the people, as a question separate and distinct from the constitution.

Upon this—

Mr. SKIFF had called for the previous question, which was pending when the convention took a recess.

The call for the previous question had been seconded, and the question was—

"Shall the main question be now put?"

Mr. TRAER. I would request the gentleman from Jasper [Mr. Skiff] to withdraw his call for

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the previous question for a moment, so that I may submit an amendment which I desire to offer, and which I have had no opportunity of doing as yet.

Mr. SKIFF. I would like to hear first what the amendment is.

Mr. TRAER. I desire, if we are to commence locating these institutions, to make provision for locating them all.

Mr. SKIFF. I cannot withdraw my call for the previous question for such an amendment.

Mr. BUNKER. I wish the gentleman from Jasper [Mr. Skiff] would withdraw his call for the previous question for a few moments. I desire to hear from the gentleman from Davis [Mr. Palmer], who offered the proposition now pending before us, his reasons for so doing. If I recollect rightly, this question was before the committee on miscellaneous subjects, and that gentleman there seemed to think that a provision to locate these institutions would have a tendency to weigh down the constitution. I would like to hear his reasons for this change of opinion on his part.

Mr. SKIFF. If the call for the previous question is withdrawn, we may spend all the afternoon in the farther discussion of this subject. Consequently, I must insist upon my call for the previous question; the convention can do as they see fit.

The question was upon ordering the main question to be put.

Mr. CLARKE, of Johnson, moved a call of the convention, which was ordered.

The secretary then called the roll, with the following result; present 34, absent 2, as follows:

Present—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson and Young.

Absent—Messrs. Cotton and Winchester.

The PRESIDENT stated that Mr. Cotton was absent under leave.

Mr. SKIFF. I move that Mr. Winchester be excused. He has gone to Muscatine on business, as I understand.

Mr. CLARK, of Alamakee. I move to amend that motion to the effect that I may be excused from attendance upon this convention.

The amendment did not receive a second.

The question was upon the motion to excuse Mr. Winchester for non-attendance.

Mr. PARVIN. I move that further proceedings under the call be dispensed with.

Mr. TRAER. This is a question in which, above all others, Mr. Winchester is interested, and I know it is his desire to be here when the vote is taken upon it. I hope the motion to excuse him, without his request, will not be adopted. I do not understand that any gentleman here has a right to ask that a member be excused, without his request.

Mr. SKIFF. I heard Mr. Winchester say that he was going home; that he would not wait upon this question any longer, but would take the responsibility of going away row.

The question was then taken upon dispensing with further proceedings under the call, and it was agreed to.

The question recurred upon ordering the main question to be put.

Mr. PALMER. Before the main question is ordered to be put, I desire to make a personal explanation. As I am the author of the pending proposition, it may, perhaps, be more appropriate for me to make such an explanation, than it would be for any other member whose motives have been impugned.

It has been insinuated, either in this convention, or out of it, that I have changed my position since this question first arose, from being a violent opponent to this measure, to being a warm advocate of it. This is not so. I have ever been in favor of locating the seat of government where it is now fixed by law. I thought the matter was settled. I had no idea, before I came to this convention, that this question would be raised here at all. I knew the people of my section of the State were in favor of the location of the State Capitol in accordance with the action of the legislature upon that subject, and that they supposed it was permanently fixed there. It was also understood, I believe, that the public buildings here in Iowa City, which are so valuable, would be put to some use, and that they could not be put to a better use than the purposes of the State University.

It is true that in the committee on miscellaneous subjects, to which I belonged, I did assent to the report being brought in here, without anything being said upon the capitol question at all. I never assented that the capitol question should be agitated in any way, for I supposed it would undoubtedly remain as previously settled by law. But it has been intimated here, it has been stated in various quarters, that that question was not yet settled. I suppose that the understanding that this question should be passed by unnoticed here, was in consequence of the belief that it was already settled by law. But the suggestion that there was no certainty that it was yet settled, may have changed the views of some members as to the necessity of incorporating some provision in this constitution which may settle it.

During the ten years that I have been in this State, this question has been continually before the legislature. I am in favor of settling it now, if it has not yet been settled. And it was with that view that I introduced this article. I believe it should be settled, as the people, through their representatives in the legislature, on dif-

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ferent occasions, and at different sessions of the legislature, have intimated that it should be settled.

I believe that what I have introduced here will not prove in any way detrimental to the interests of the citizens of this place, when I provide in my proposition that the State University should be permanently located in this place, and the capitol at Fort Des Moines, leaving the other institutions to be settled hereafter. It was not with any personal views that I raised this question here. It was after consultation with members of this convention, and with their approval, that I introduced it. I claim to have been influenced by just as honest and patriotic motives, in what I did, as any other members upon this floor can be.

Mr. BUNKER. I had no intention to impugn the motives of the gentleman from Davis [Mr. Palmer,] in any respect, in the remarks that I made. But I understood him, in his arguments before the committee, to be opposed upon principle to this measure, upon the ground that a provision locating these institutions would act as a dead weight upon the constitution, in consequence of which it might be defeated before the people. I understood the gentleman then as taking that ground, and I only desired an explanation of his change of position.

The question recurred upon ordering the main question to be put.

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the main question was ordered; yeas 19, nays 15, as follows:

Yeas—Messrs. Ayres, Clarke of Henry, Day, Edwards, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Price, Robinson, Seely, Skiff, Solomon and Todhunter.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Johnson, Ells, Emerson, Gower, Gray, Marvin, Peters, Scott, Traer, Warren, Wilson and Young.

The first question was upon the motion of Mr. Clarke, of Johnson, to substitute for the proposition of Mr. Palmer, the following:

"The question of locating the seat of government at Des Moines City, and the State University at Iowa City, shall be submitted to the people, as a separate proposition, at the same time the vote is taken upon the adoption of the constitution; and if a majority of the votes cast at said election shall be in favor of that proposition, the said institutions shall be so located."

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, the amendment was not agreed to; yeas 11, nays 23, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke, of Johnson, Ells, Emerson, Gower, Gray, Scott, Traer and Warren.

Nays—Messrs. Ayres, Clarke of Henry, Day, Edwards, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Seely, Skiff, Solomon, Todhunter, Wilson and Young.

Mr. CLARK, of Alamakee, when his name was called, said:

I vote "aye," under protest. I am opposed to having this subject in the constitution at all. But if we must have it, I prefer to have it in this form.

No other amendment being offered—

The question was upon ordering the article to a third reading, and referring it to the committee on revision, engrossment and enrollment.

Upon this question—

Mr. YOUNG called for the yeas and nays, and they were ordered accordingly.

The question being taken, by yeas and nays, the article was ordered to a third reading, and referred accordingly; yeas 20, nays 15, as follows:

Yeas—The President, Messrs. Ayres, Clarke of Henry, Day, Edwards, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Palmer, Patterson, Price, Robinson, Seely, Skiff, Solomon, Todhunter and Warren.

Nays—Messrs. Bunker, Clark, of Alamakee, Clarke of Johnson, Ells, Emerson, Gower, Gray, Marvin, Parvin, Peters, Scott, Traer, Wilson, Winchester and Young.

Education and School Lands.

Mr. EDWARDS. I move that the convention proceed to consider, in committee of the whole, the report of the committee on education and school lands.

Mr. HALL. I move to amend that motion so that the convention consider that report without going into committee of the whole.

Mr. EDWARDS. Very well—I have no objection; I accept the amendment.

The question being taken, the motion as modified was agreed to.

The report of the committee on education and school lands—being the last report made by that committee—was then taken up and read, as heretofore published.

The convention then proceeded to consider that report by sections.

Board of Education.

The first section was then read as follows:

"Section 1. The educational interest of the State, to include common schools and other educational institutions, shall be under the

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management of a Board of Education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State."

Mr. WILSON. I rise to inquire whether it would be in order to submit a substitute for this report?

The PRESIDENT. The proper course of proceeding would be to proceed to amend this report first; when that is done, a substitute for this report as amended could be offered.

Mr. WILSON. I wish to state, in addition to the inquiry, that I am opposed to this article, as reported from the committee; and I desire to move a substitute for it, in order to get a test vote of the convention in relation to it. If the convention determine, by a majority vote, to reject the system which I propose to offer as a substitute, which will be the minority report of the committee on education and school lands, I shall feel like giving up the contest. I think the report of the majority is too cumbersome, and goes too much into detail.

The PRESIDENT. The chair is inclined to entertain the motion of the gentleman from Jefferson [Mr. Wilson].

The question was stated to be upon substituting the former minority report of the committee on education and school lands for the majority report of the committee as last made.

The majority report was read, as follows:

"Section 1. The educational interests of the state, to include common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the state.

"Sec. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and been one year a citizen of the state.

"Sec. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

"Sec. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the board may fix the time and place of meeting. No regular session of the board shall be held during the time the general assembly may be in session.

Sec. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the board, the Governor may order a special session.

"Sec. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the state. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

"Sec. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so passed, published, and distributed, they shall have the force and effect of law.

"Sec. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other institutions of learning, that are instituted to receive aid from the school or university fund of this state; *Provided*, that all acts, rules, and regulations of said Board may be altered, amended, or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the board of education.

Sec. 9. The governor of the state shall be, *ex officio*, a member of said board.

Sec. 10. The board shall not have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly.

Sec. 11. The state university shall consist of a single institution, and the university fund shall be applied to that institution, and no other.

Sec. 12. The board of education shall provide for the education of all the youths of the state, through a system of schools. A school shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund.

Sec. 13. The board of education shall receive the same per diem and mileage during the time of their session, as members of the general assembly; and, for other services, such compensation as shall be provided for by the general assembly.

Sec. 14. A majority of the board shall constitute a quorum for the transaction of business; *Provided*, no rule, regulation or law, for the regulation and government of the school or educational system shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the board shall be, "Be it enacted by the board of education of the state of Iowa."

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Sec. 15. At any time after the year 1865, the general assembly, two-thirds of each branch concurring, shall have power to supersede or re-organize said board of education, and provide for the educational interest of the state in any other manner that to them shall seem best and proper.

School Funds and School Lands.

ARTICLE —.

Sec. 1. The educational and school funds and lands shall be under the control and management of the general assembly of this state.

Sec. 2. The university lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the state university. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

Sec. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress, distributing the proceeds of the public lands among the several states of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this state, shall be, and remain, a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

Sec. 4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fines collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall, from time to time provide.

Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Sec. 6. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law.

Sec. 7. The money subject to the support and maintenance of common schools, shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty one years, in such manner as may be provided by the General Assembly.

The substitute was read as follows :

Section 1. The General Assembly shall provide for the election or appointment of a Board of Education, to be composed of twelve persons, who shall be the Trustees of the University, and shall have the general charge and control of education in the State. They shall have power to appoint a Secretary of the Board, who shall be their executive agent, and perform such duties as may be imposed upon him by the Board of Education or the laws of the State.

Sec. 2. Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvements, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D., 1841, and all estates of deceased persons, who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of Common Schools throughout the State.

Sec. 3. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties, for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall, from time to time, provide by law.

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Sec. 4. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States, or any person or persons, to this State, for the use of a University; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said University, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

The question was upon the substitute.

Mr. HALL. This very same substitute has been offered two or three times before, in committee of the whole, and in the convention. The report for which it is offered, comes to us with the unanimous recommendation of the committee on education and school lands, which committee consists now of the old committee, and two additional members. I do not desire to enter into any discussion of this subject, and shall, therefore, say nothing farther on this matter.

Mr. HARRIS. I feel under the necessity of saying, in explanation of the vote I shall probably give, that while in my signature to this report of the committee, I have stated that I signed it "as a compromise," and, therefore, intimated that it was not exactly what I desired, still I shall vote to sustain it. I am not entirely satisfied with it. But I have investigated this subject more than any other question here, and I am convinced that a majority of this convention are in favor of a board of education of some kind, and the great probability is, from what I have been able to learn, that a majority of the convention are in favor of a board of education, as provided for here. I would have preferred, myself, to have left the details to be settled by the legislature. But it having been urged upon me that there was a necessity for some compromise in order to produce some harmony of action here, and as the labors of the convention were drawing to a close, and we were upon the eve of adjournment, I was inclined to give up my preferences, and go for this report. I shall, therefore, vote to sustain it.

The question recurred upon the substitute.

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were accordingly ordered.

The question being then taken by yeas and nays, the substitute was not agreed to. Yeas 12, nays 21, as follows:

Yeas.—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Gower, Gray, Scott, Traer, Wilson, Winchester and Young.

Nays.—Messrs. Ayres, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Seely, Skiff, Solomon, Todhunter and Warren.

The question recurred upon the first section of the report of the committee.

No amendment being offered thereto,

Age of Members of the Board.

Section two was then read as follows:

"No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and been one year a citizen of the state."

Mr. TRAER moved to strike out the words "twenty-five," and insert the words "twenty-one."

Mr. HALL. That question has already been voted upon, and the yeas and nays upon it are now upon our journal. I would inquire if it is in order to submit this motion again.

Mr. TRAER. I understand that this report is now upon its second reading, and open to amendment. It was read the first time on yesterday, and this is the first time it has been taken up for the action of the convention upon it.

Mr. HALL. I am willing to meet a fair and reasonable hostility, but I do not want too many editions of the same kind. We have had this once, and I think that is enough.

The PRESIDENT. The Chair will read his reasons for entertaining this amendment. The Chair would call the attention of the convention to chapter XIV of Cushing's Manual, sections 250, 251, 252 and 253; which read as follows:

"It is a principle of parliamentary law, upon which many of the rules and proceedings previously stated are founded, that when a question has been once put to a deliberative assembly, and decided, whether in the affirmative or negative, that decision is the judgment of the assembly, and cannot be again brought into question.

"This principle holds equally, although the question proposed is not the identical question which has already been decided, but only its equivalent; as, for example, where the negative of one question amounts to the affirmative of the other, and leaves no other alternative. The questions are the equivalents of one another, and a decision of the one necessarily concludes the other.

"A common application of the rule as to equivalent questions occurs in the case of an amendment proposed by striking out words; in which it is the invariable practice to consider the negative of striking out as equivalent to the affirmative of agreeing; so that to put a question on agreeing, after a question on striking out is negatived, would be, in effect, to put the same question twice over.

"The principle above stated does not apply so as to prevent putting the same question in the different stages of any proceeding, as, for exam-

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ple, in legislative bodies, the different stages of a bill; so, *in considering reports of committees, questions already taken and decided, before the subject was referred, may be again proposed;* and, in like manner, orders of the assembly, and instructions, or references to committees, may be discharged or rescinded."

The question was stated to be upon the motion to strike out and insert.

Mr. CLARKE, of Johnson. I move a division of the question, so that it may be taken first upon striking out. I am in favor of striking out the words "twenty-five," but I desire to insert a higher number.

The question being taken upon dividing the motion to strike out and insert, it was not agreed to.

The question recurred upon the motion to strike out the words "twenty-five," and insert "twenty-one."

Upon this question—

Mr. TRAER called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the motion to strike out and insert was not agreed to; yeas 8, nays 24, as follows:

Yeas—Messrs. Clark of Alamakee, Clarke of Henry, Peters, Scott, Seely, Solomon, Traer and Wilson.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Johnson, Day, Edwards, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Marvin, Palmer, Parvin, Patterson, Price, Robinson, Skiff, Todhunter, Warren, Winchester and Young.

No further amendment being offered to this section—

Terms and Classification of Members.

Section three was then read as follows:

"One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the Board shall be chosen every two years thereafter."

No amendment being offered to this section—

Sessions of the Board.

Section four was then read as follows:

"The first session of the Board of Education shall be held at the Seat of Government, on the first Monday of December, after their election; after which the Board may fix the time and place of meeting. No regular session of the Board shall be held during the time the General Assembly may be in session."

No amendment being offered to this section—

Section five was then read as follows:

"The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two thirds of the Board, the Governor may order a special session."

No amendment being offered to this section—

Secretary of the Board.

Section six was read as follows:

"The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly."

No amendment being offered to this section—

Rules and Regulations of the Board.

Section seven was then read as follows:

"All rules and regulations made by the Board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the Board, and when so passed, published, and distributed, they shall have the force and effect of law."

Mr. SCOTT. I move to strike out the words "as may be provided for by the board." I would have the law compel the board to distribute their rules and regulations to the school districts. If they are left to do as they please, they may be negligent, and distribute their rules to counties only, and enforce those thus distributed upon the districts. I want to have it obligatory upon them to distribute to each district their rules and regulations, and then, after their distribution, it would be no more than proper that the districts should be holden bound by them. But if we leave it distinctly to them to distribute them as they see fit, it will be giving them too much discretion. I, therefore, move to strike out the words "as may be provided for by the board."

Mr. MARVIN. I think the gentleman from Clayton [Mr. Scott,] is mistaken in the construction he puts upon the words "as may be provided for by the board." I think they refer to the rules and regulations, and not the publishing and distributing of them.

The question being taken upon the amendment, it was not agreed to.

No further amendment being offered to this section—

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Powers of the Board.

Section eight was then read as follows:

"The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other institutions of learning, that are instituted, to receive aid from the School or University fund of this State; Provided, that all acts, rules, and regulations of said Board may be altered, amended, or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Education."

No amendment being offered to this section—

The Governor a Member of the Board.

Section nine was then read as follows:

"The Governor of the State shall be, *ex officio*, a member of said Board."

No amendment being offered to this section—

Raising and Appropriating Money.

Section ten was read as follows:

"The board shall not have power to levy taxes or make appropriations of money. The contingent expenses shall be provided for by the general assembly."

Powers of the Board.

Mr. CLARKE, of Henry. I desire to offer a substitute for sections five, six, seven, eight and ten. Those sections read as follows:

"Sec. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the board, the Governor may order a special session.

"Sec. 6. The board of education shall appoint a secretary; who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the state. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

"Sec. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so passed, published and distributed, they shall have the force and effect of law.

"Sec. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other institutions of learning, that are instituted, to receive aid from the school or university fund of this state; Provided, that all acts, rules and regulations of said board may be altered, amended, or repealed by the general assembly; and when so altered, amended or repealed, they shall not be re-enacted by the board of education.

"Sec. 10. The board shall not have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly."

I move the following as a substitute for the foregoing sections:

"The powers, duties and compensation of the board shall be such as shall be prescribed by law."

As I have before intimated, I have objections to this article as reported by the committee. The object of a constitutional provision is to give stability and permanency, to settle the principles upon which the legislature, the courts, and other tribunals, in fact, all the machinery of the state, shall act. If we have an object in view at all, in going through all this mass of legislation in the constitution, it is to fix and establish a permanent and efficient school system. And no gentleman can get up here and offer any other good reason why this article should be incorporated into the constitution.

I say the object claimed is to give permanency and efficiency to our school system. And yet, as if conscious of the imperfections that are all through the article reported here, as if conscious of the temerity of the attempt at this time to provide for this state a school system, gentlemen come in here with this report, and present us with a sort of salvo, a something that we can fall back upon, and say that although the system provided here may work evil, there is a remedy for that evil in the final action of the legislature, and that after the year 1865 the general assembly may abolish this whole system and set some other machinery in motion. In that way gentlemen destroy the only argument they have brought forward here why we should incorporate this article into the constitution; they thus take from it that constitutional stability they say is so desirable; they make it entirely dependent upon the legislature, as to whether it shall continue after the year 1865. They have done nothing more here than our last general assembly would have done, if they had passed the school bill as drawn up by Mr. Mann and the other school commissioners.

What I object to is that, with so little time as we have left us, we should undertake to mature this system in all its details. We are assuming too much in attempting to fix this matter by constitutional provisions, in attempting to forestall the legislature and create here a board to which we are to give legislative powers, and proceeding to prescribe their duties and compensation; thus taking away from the general assembly the duties they should properly perform.

What do gentlemen propose to do? They come in here, and while all the people of the State are suffering the evil consequences of the recent action of the school officer of this State, while public opinion is excited against that

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officer, who was created by the former constitution of this State, they seize hold of this desire to rectify the evil he has done, and they go to the other extreme. These gentlemen remind me of a fable recorded by Æsop, from which I think they might draw wisdom. The story is told of a fox upon whom a swarm of flies had settled, and were sucking his life-blood from him. A friendly swallow came up to him, and offered his assistance to drive away the flies. "No," says the fox, "let them alone, I pray you; for if you drive these away, who have now filled themselves, I shall be attacked by a more hungry swarm, and my sufferings will but be increased."

Now I beg gentlemen to think of this matter. In their anxiety to get rid of this one leech, they are endeavoring to fasten upon this State a dozen other leeches. They provide for a board of twelve members, who are to meet in solemn conclave, and hold annual sessions of twenty days, and be allowed per diem and mileage, some of them to be elected away up in the far district represented by the gentleman from Alamakee, [Mr. Clark,] and perhaps computing their mileage away round by Chicago; others to be elected from Sioux City, and other distant portions of the State. These men are to come here, to do what? What will they have to occupy their time for twenty days in every year? Have we experienced the necessity of such a body heretofore? Have the people complained that they had not a body of twelve wise-acres, to meet together and say where they might establish an academy, a polytechnic school, or a teachers' institute? Have they felt the necessity for this sub-legislature, to say where and how their school fund should be appropriated. I have heard no such complaints.

That there was some reform necessary in our school system; that there was some necessity that we should have something more efficient, and that we could place some dependence upon, than our school superintendent, that old exploded idea, I have heard. But that we should have a legislature to act upon school matters, to take that as their particular province—I never have heard that, and I do not believe the people want it.

This board must be paid. Let me ask the gentleman from Des Moines, [Mr. Hall,] if he remembers the argument he used here in regard to the judiciary? Does he recollect how eloquently he explained to us the absolute necessity of paying men well in order to get them to serve the people; that if we wanted to get men qualified for the position, we must pay them high salaries? And has he not as eloquently told us that the educational interests of the state involved the highest and dearest interests of the people, and that it was the most important branch of the government? And will that gentleman get up here and say that men, fitted to be members of this board, to legislate upon the educational interests of the state, are men who should have less salaries than those who are to occupy those positions, which, according to his arguments, are inferior to these? Does he expect that he will be able to get men who will, out of mere love for this school system, take these offices upon themselves, and come here and legislate upon school matters for us for nothing? Oh, no; the gentleman has prepared a provision here in which he says they shall have no more compensation than legislators—ordinary legislators, members of an inferior legislature, who meet together merely to legislate upon our pecuniary interests. Men who are to legislate upon these important interests, which he says are the highest interests of the state, the intellectual and moral interests of the state, are to be put upon the same footing with the inferior legislators who pass laws upon property, &c. They are all to be put upon the same footing. For how long? For twenty days. What are they to do? They are to have their duties to perform. They are to fix up a school system, and are to prescribe their duties for themselves. They may be, perhaps, superintendents of schools in their respective districts. They will have their other business to perform, for they will not come here to act in this sub-legislature, unless they are otherwise connected with the educational interests of the state. And I tell the gentleman he cannot expect to get men to do all this without paying them fifteen hundred or two thousand dollars a year for their services.

Gentlemen may undertake to show you that the expenses of the sessions of the Board, at three dollars each, for twenty days, would be only sixty dollars for each member, and that the mileage allowed will not be a very large sum. But I tell you that there will be other expenses. Look at the provisions that are made here. This Board, upon a recommendation of two thirds of their number, can have special sessions. I ask gentlemen, when this Board shall assemble, if they will not be likely to get into some such dispute as we have had here in regard to this question, and the time of twenty days having expired, two thirds of the members will then petition the Governor, who is present at their session, for an extra session. Extra sessions are very likely to be called, for there is no limit in this respect. The Board have it within their own power to call them, if they desire to do so.

But the gentleman says that the next legislature which meets after the session of this Board, can repeal any of their acts. What subjects are this Board of Education to have under their supervision and control? The chairman of the committee on education and school lands [Mr. Marvin], in his report, tells you, that this Board shall have the power to discuss all matters pertaining to the common school system—more especially its organization; what branches shall be taught in the different schools; what facilities shall be afforded for the education and instruction of teachers; what compensation they shall receive; what text-books shall be used by the common schools, &c. They are, in fact, to supervise and provide for all matters that ap-

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pertain to the educational interests of the State.

It is true, the gentleman says that the legislature can control all their acts, rules and regulations. But if the legislature are to have the power to do all that, in what position are you going to place this Board? To be sure, this Board cannot levy taxes; but I ask you, if they have the power to pass laws, and say when schools shall be established, have they not the right to make contracts under those laws for putting up school houses? They can meet right away after a session of the legislature, and if then they pass a law in regard to schools, it can be carried into effect before the next meeting of the legislature.

I ask gentlemen not to deceive themselves in regard to this matter. The establishment of a Board of Education, with such powers as these, will lead to the most interminable confusion, and will produce a conflict between the two bodies—the school legislature and the general legislature. I ask gentlemen—what is the object of our legislating here in the constitution, and prescribing the powers and duties of this Board? The only object that can be gained by it is to give permanency and stability to the Board, and that is defeated in a great measure by saying that in 1865, when the mischief is done, the whole system may be changed, repealed or abolished.

I think we can safely trust all this matter to the legislature, and not create here a separate department of government, in order to carry out the objects which gentlemen here propose, in regard to the school interests of this state. You cannot find an instance in another state where such a system is incorporated into the constitution, as is proposed here. I ask gentlemen, if they wish to take the responsibility upon themselves of imposing this undigested system upon the people of this state? Is it not better to leave this whole matter to the legislature, and let them make ample provision for carrying out this system? Leave all the machinery to them, and let the board act under the legislature, but do not give them co-ordinate jurisdiction. I tell you we cannot have harmony under the plan now proposed here, of having two legislatures in the state. You might as well go on and create a separate legislature for every interest in the state. You might create a legislature for banking, and say that they alone shall meet and have jurisdiction in that matter. It is a sort of committee of your ordinary legislature that you are creating, a committee of the legislature acting under it, with the right of the legislature to repeal their acts, but still their acts may be laws. They will be statute laws to the people, until the legislature shall meet and repeal them.

Mr. HALL called for the previous motion.

Mr. WILSON. I shall oppose this system at every step. I believe it to be wrong in principle, and I believe it will conflict with the best interests of the school system of this state. And although it may have a majority, yet I am willing to stand up against that majority and oppose the system which they are attempting to incorporate into the constitution of this state. I can see no possible good to grow out of this system, for it confers upon the board of education legislative authority in every respect, except that in connection with the school funds, and yet at the same time it retains in the hands of the legislature the power to repeal, alter, or amend the acts passed by the board.

As has been suggested by the gentleman from Henry [Mr. Clarke], it is but making this board a legislative committee. This board may meet together, as is provid d here, on the first Monday in December. They may pass a code of laws, distribute these laws throughout the state, and the general assembly at its next session may repeal one-half or two-thirds of all these laws, or they may repeal them all, before the people have had an opportunity of testing them, and determining whether there is anything good in them. Once repealed, altered, or amended, despite whatever good may have been discovered in them, this board of education will have no power to re-enact those laws, neither will the legislature, because you confer upon the board the power to make all rules and regulations for the government of our schools. This power is taken away from the legislature and given to this board.

The legislature cannot take upon themselves the power of enacting laws, and enforcing regulations, in relation to schools. They have to wait until this board has acted, and after they have acted, they can only change or repeal the rules and regulations which they have made. It seems to me that this is going a little too far.

There is another thing to which I wish to call the attention of the convention at this time, although it is not connected directly with the proposition submitted by the gentleman from Henry, [Mr. Clarke.]

The article reported by the committee provides—

"That at any time after the year 1865, the general assembly, two-thirds of each branch concurring, shall have power to supersede or re-organize said board of education, and provide for the educational interests of the state in any other manner that to them shall seem best and proper."

If we adopt the plan now under consideration, we provide, in the first place, that the board of education shall be composed of twelve in number, distributed throughout the state and elected by the people. They are to be entrusted with legislative power, and to receive the same compensation as that paid to members of the general assembly; and they are to receive mileage also. At any time after 1865, the general assembly may, by this provision which I have read, abolish this board. But here are eleven men in eleven judicial districts of the state, one man in each district, all leading and influential

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men, who can bring their influence to bear upon the legislature, and thereby control at least one-third of that body, so as to defeat any measure introduced to abolish the board, and in this way this board of education can impose themselves upon the people of the state for all time to come. This board will have the power in their hands to retain their places until the people can amend their constitution again. I am opposed, therefore, for this reason, to the system here proposed.

We have provided a simple method for amendments to the constitution in other respects; but we find in connection with one of the dearest and most sacred rights of the people, that this article proposes a method by which we cannot get an amendment in this respect. I hope that this convention will look at this matter carefully, and scrutinize it well, before they take a step which may seriously affect one of the most important interests of the state.

We have been referred, by the gentleman who appears upon this floor as the principal advocate of this measure, to Mr. Mann's school bill, reported to the last legislature. The gentleman said, what can we expect of a set of men who would reject a bill drawn by Mr. Mann? And yet we see that very gentleman who is finding fault with the last legislature for refusing to adopt Mr. Mann's bill—bringing in a proposition that is in direct opposition to that bill—a proposition that is more cumbrous, more complicated, and that will be more expensive, and which is open to all the objections that can be urged against that bill. I think, too, there are but very few good provisions embodied in it. If we differ here in this respect, what may we not expect from a board of education? May they not also get up some third scheme, and then wait the tardy action of the legislature, which, the gentleman says here, has not in the whole history of this state, spent thirty hours in legislation upon school matters?

There are questions connected with this system that demand a thorough investigation at the hands of the convention; and we ought to take time for a full discussion of them, and not rush this scheme through under the operation of the previous question. I am determined that my protest shall go upon the records of the convention against this scheme. I am willing to try a board of education, under some such proposition as that suggested by the gentleman from Henry, [Mr. Clarke.] Let the legislature have the control of this board, and let them abolish it at any time if it does not work well. I desire to establish a system that will protect the interests of our schools, and which will not be too cumbrous, and deprive the people of any remedy that may be required. I hope, therefore, that the previous question will not be sustained, and that this matter will be thoroughly investigated.

Mr. HALL. We have all heard these same speeches time and again. I do not rise for the purpose of discussing this matter any further. I wish, for the benefit of the gentleman from Henry, [Mr. Clarke,] to illustrate his position by an incident that is related of a man by the name of Ketchum, who lived at Fort Madison, and was a man of some character and standing. He was a skeptic in religious matters, and did not believe in the Bible. Some one who had a great curiosity to know the reason for his skepticism, inquired of him why he did not believe in the Bible; and Ketchum replied, "because I did not have a hand in the making of it." The opposition of the gentleman from Henry, [Mr. Clarke,] to this measure, can be accounted for, I apprehend, upon the same ground. (Laughter.) The gentleman from Jefferson, [Mr. Wilson,] does not have any confidence in anybody. He is more skeptical even than old Ketchum. He believes that this board of education will all be great rascals. This course of argument, that sets out that all of this board will get to quarreling, and that every one of them will be dishonest, may be a pretty strong argument with some; but it will have no weight with men who have different disposi ions.

I now call for the previous question.

Mr. CLARKE, of Johnson. If it be the intention of the majority to gag us upon so important a question as this, I shall call the yeas and nays.

The yeas and nays were accordingly ordered.

The question was then taken, by yeas and nays, upon ordering the main question to be now put, and it was not agreed to; yeas 16, nays 18, as follows:

Yeas—The President, Messrs. Day, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Price, Robinson, Skiff, Solomon, Todhunter, Warren and Winchester.

Nays—Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Emerson, Gower, Gray, Hollingsworth, Marvin, Parvin Peters, Scott, Seely, Traer, Wilson and Young.

The question recurred upon the amendment of Mr. Clarke of Henry.

Mr. PETERS. I wish to say in explanation of my vote against sustaining the previous question, that I desire to have this matter fully and fairly discussed. I have voted against the previous question at all times. I believe it is a rule which should never be introduced into a deliberative body for the purpose of giving the majority the right to gag the minority.

Mr. PARVIN. I have not been so much at a loss to know how to vote upon any question that has engaged the attention of the convention, as upon this. I have no doubt that every person upon this floor feels anxious to adopt such a system as will best promote the interests of the rising generation. This is the only motive, I presume, that will influence any person here, and not because he did or did not originate a bill or present a proposition upon this subject.

Since the gentleman from Des Moines [Mr. Hall] first introduced his proposition—and he

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is certainly entitled to great credit for the manner in which he presented it, and the ability with which he advocated it, showing as it did most conclusively that he had bestowed great labor upon this subject—I have been almost persuaded to adopt his new-fangled scheme for creating a legislature for the express purpose of legislating upon this subject of schools. I say I have been almost persuaded to adopt it; but after considerable reflection upon the subject, I have now come to quite a different conclusion. I think I can see great difficulties arising from our leaving this whole subject of the educational interests of the State in the hands of such a Board; more difficulties than, I think, will arise from leaving it with the General Assembly.

I voted against the substitution of the minority for the majority report, thinking that we could sooner amend the majority report than take up and dispose of the minority report. The amendment now before the convention is simply to strike out all that relates to the legislative functions of this Board of Education, and just say that its powers, duties and compensation shall be provided for by the General Assembly. As at present inclined, I think I shall vote for this amendment, knowing that we have precedents set us in other States, where it is said such a plan has been found to work well. Although I yet hesitate, and fear that I am acting wrong, yet I intend to vote for the amendment, believing in my own mind that it is the best and safest course we can pursue.

Mr. EDWARDS. After hearing the various speeches that have been made upon the various propositions presented here, I shall content myself upon this occasion with a very few remarks. I have been quite an impartial looker-on, and I can truly say, with other gentlemen, that my mind is not fully made up upon this question. After a careful investigation of the various schemes that have been proposed here, and after a full interchange of opinion in the committee and the convention, I believe that the proposition now before the convention is about as good as we can obtain. I believe if the amendment offered by the gentleman from Henry, [Mr. Clarke,] should prevail, it would inflict a deathblow upon this proposition, and, therefore, I am prepared to vote against it.

If this proposition possesses any merits at all, it is on account of that main feature which gives the board legislative power, uncontrolled and uninfluenced by the political machinations of the general assembly. I know that in legislation it is the most difficult thing in the world to bring men to favor a new measure, unless they have some experience of the past, or some precedent to govern them in their vote. It is well that this difficulty should surround a new question, when it is presented, and that legislators should exercise this caution, before assuming the responsibility of endorsing any new project. It appears to me, that if a general assembly, composed of eighty members of the lower house, and thirty-six in the senate, are capable and qualified to pass upon these school matters, certainly a board composed of only the the number of persons which is proposed here, having this one subject alone to engross their minds and attention, would be better qualified to act upon the subject of education; and especially when we take into consideration that it is not to be mixed up with any log-rolling or political schemes.

I am satisfied that if this proposition be adopted, and goes forth to the people, the people in every judicial district will elect their most competent men, such men as will, when they meet together, with but one object in view, be enabled to produce a plan of government for the common schools, that will tend to advance the best interests of the people and of the State at large, and redound to the glory and renown of the State. I venture farther to say, that if this system goes into operation, there will be no rule, or regulation, or act, or whatever you are pleased to term it, that the board may pass, with which the general assembly would take the responsibility of interfering. True, when the system goes into practical operation, it may become obnoxious to the popular sentiment of the State; but if so, the legislature have the power of repealing the whole system. But I will venture to say that, so far as any rules of action or laws which they may pass, are concerned, the general assembly will never take the responsibility of interfering with them. If we can trust the general assembly upon this as upon other questions, why, I ask you, may not this board, elected and controlled by the people, be just as honest and as capable of discharging the duties that are assigned them, especially when they have the council and advice of the governor of the state? If the amendment of the gentleman from Henry be adopted, it renders this whole system a farce, and destroys its most vital principle. I, for one, will then be prepared to vote against the whole thing.

I am pleased to hear the expressions of opinion upon this subject, which have fallen from the lips of various gentlemen here; and if any proposition, which is presented here, does not tend to act as a rider, to defeat the main features of this system, for the sake of compromise and conciliation, I would be willing to go for it; but if a proposition, so startling as that presented by the gentleman from Henry, [Mr. Clarke,] should be adopted here, a proposition which is calculated to destroy the most vital principle of the system which I favor, then I am prepared to abandon it.

I was opposed to the proposition of the gentleman from Des Moines, [Mr. Hall,] for many days. But having listened carefully and attentively to the opinions of gentlemen upon the various propositions that have been presented, I am now prepared to vote for it. If it be entitled to any merit, the credit of it will be certainly due to the ability and the zeal which the gentleman from Des Moines has displayed in its advocacy here. I believe it is the best proposi-

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tion which we can now adopt; and I confidently believe, also, that if it be adopted and if it should go into practical operation, it will promote the best interests of the children of the State, and redound to the future glory of this, our young but growing State.

Mr. HARRIS. I have but a remark or two to make in regard to this matter. Like many other gentlemen here, I was in great doubt how to shape my action upon this question. At the commencement of this discussion, the proposition of the gentleman from Des Moines [Mr. Hall] did not meet my entire approbation. The proposition, as now modified, has removed in a great measure the objections which I, in common with others, entertained to it. I am willing to give this system, hitherto untried in this state, a trial, provided we have the privilege of altering it, as I think we have.

The feeling of the convention has been demonstrated, in an unmistakable manner, that they were in favor of some change. Evidence enough has been presented to the convention, that there was a necessity for doing something in regard to our school system, and providing for a more efficient management of the school affairs of the state. I think, under the circumstances, that it is unwise to interpose these objections here, when the mind of the convention seems to have settled upon the main features of the system.

Mr. SCOTT. Before this question is finaly acted upon, I would like to give my views upon it, which I will do in a very few minutes. I probably feel as much interest in the improvement of the common schools of this state as any individual here. Notwithstanding my extreme youth, I can safely say, that I have passed as many hours in the school room, and devoted as much time and attention to that department, as any other member upon this floor.

I have, from the very first, and until recently, been opposed to this whole scheme of the gentleman from Des Moines [Mr. Hall]. It was a novel scheme to me, and I could not see any good that would grow out of it. I entertained serious fears that, if adopted, it might work mischief. But more recently I have come to the conclusion that, notwithstanding it is an untried experiment, and notwithstanding it may be fraught with disastrous consequences, it is better for me to support it than to let our present system remain as it is.

I believe we are all fully convinced that the present system of common schools in this state is a ruinous one, and that it is greatly behind the growth and natural progress of our state; that it needs elevating and building up. We need a change that will make a revolution in the present state of things, and call public attention to the present condition of our schools. A lethargy seems to pervade the public mind upon this most vital of all subjects, a subject which should arouse every lover of his kind, who desires the future welfare of the state, to the most untiring exertions to promote the cause of education.

If the system now proposed here be adopted, I am confident it will lead to good results, for the people will be aroused upon the subject, and the whole subject will be thoroughly discussed; and when once this state of feeling is excited in the community, no fears need be entertained of the consequences that will follow. The people desire some change in the present system, and are eagerly grasping for it. I need not portray to you, in all its ugly features, the system of school education that now exists in this state. It needs no language of mine to present it before you in all its worst phases, for you are all familiar with them, and are consequently impressed with the great necessity that exists for a change. I believe the system now presented by the gentleman from Des Moines [Mr. Hall] is the best one that has yet been presented here. I feel willing to support this system and give it a fair trial; and if it does not work well, it certainly cannot make our system any worse than it is now. I hope gentlemen will take this view of the proposition, and be prepared to give their votes for it.

Mr. BUNKER. I wish to ask the gentleman one question. Does he propose to do evil that good may come?

Mr. SCOTT. In answer to the gentleman, I would say that I propose to take one step forward, let it be in the dark or in the light. When I am standing in a slippery place, ready to fall, I will step forward, and trust to a kind providence for a better footing.

Mr. CLARKE, of Johnson. The proposition of the gentleman from Henry [Mr Clarke] seems to embody more nearly my views than the proposition of the committee; and I cannot let the occasion pass without giving my views briefly in opposition to this report. I might say, as other gentlemen have said upon this floor, that while I feel a great interest in the subject of education, and while I desire that something should be done here, which will secure a more perfect system than we now have, yet I feel, in common with other members, my inability and my want of experience in relation to this subject.

But the great objection which I have to this proposition of the committee is admitted by the gentlemen themselves who favor it. They frankly confess that it is an experiment. I ask the convention then, why try an experiment in the constitution of the State? Why place in the constitution a system which gentlemen themselves say may fail, and for the failure of which they have themselves made provision? Allow me to ask them, whether the people sent us here for any such purpose, and any such object? It does seem to me that the people had no such purpose in view; that they had no such thing in contemplation, and that our duty here is to erect and frame a government that will best secure the individual rights of the people. If I were sitting in the General Assembly of this

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State, and were called upon to act upon this question of common schools, and this proposition of the gentleman from Des Moines [Mr. Hall,] were presented to me for my action, I should then think more favorably of it. The objections I have to it would not be so forcible then, for, if the system did fail, the ensuing legislature could repeal the law, and provide something else.

I am inclined to the opinion, which the gentleman from Henry [Mr. Clarke,] has expressed, that the incorporation of these details into the fundamental law of the State is utterly inconsistent with the objects and purposes of a constitution. It is beyond it, and outside of it; by the incorporation of these details we endanger, in my judgment, the constitution itself.

There are other features in this report which will be not only invalid in themselves, but which are unjust to the people, and which cannot fail to meet their condemnation. My first objection to it is the manner in which this board is constituted. It seems to be the tendency of this convention to change the whole representative spirit of our government. We have already adopted, as the basis of representation for the House of Representatives, a system that is entirely new, and by which the preponderance in the House of Representatives is to be taken from the mass of the population, and given into the hands of the minority. This plan of the committee proposes the same thing. It does not propose that this board shall be elected according to population, and that the people shall be fairly and equitably represented in this board; but it proposes that they shall be elected by judicial districts, without regard to population, and representation. The reply the friends of the proposition make to this objection is, that this board will have nothing to do with the handling of the funds of the institution. That is true; but upon this subject of education there is something dearer to the people than the mere handling of the funds.

There is another thing, which it may not be very popular to name here, but which is nevertheless true, that you find the most intelligence where the bulk of the population is; and just in proportion as you remove from the mass of the people in the selection of this board of education, just in that proportion do you remove the selection of these officers from the intelligence of the State. That is my first main objection to this proposition.

Another objection I have to the report now presented by this special committee is, that it completely destroys and does away with all the arguments in favor of the proposition as it was originally submitted by the gentleman from Des Moines, [Mr. Hall.] What was his great argument in favor of his system? It was that it would give independence, stability, and character to the school system; and for that purpose, and with that view, he was opposed to giving the General Assembly any power and control over this board.

His argument upon that subject, to my mind, was powerful, and it did more to reconcile me to the original proposition than anything else that was said by him or any other gentleman. I find that in this special report all this idea of stability, independence and character is gone; not only because the general assembly may repeal every law and every rule which this board may pass, but because there are placed over this board two officers who will make its members mere automatons. In the first place, the lieutenant governor is to be the presiding officer of this board. and he is to give the casting vote. In the next place, the governor is to be *ex officio* a member of the board. I will say, without reflecting upon anybody, upon any governor we ever had, or upon the present governor, that the tendency of men's minds is to fancy that when a man is governor he must necessarily know everything; and this board will be likely to submit to the opinions and suggestions of mere persons in office, rather than look themselves at what will be best and proper for the people.

The ninth section of this report provides that "the governor shall be *ex officio* a member of this board." It does not say whether he is to have a vote or not, or whether his suggestions are to be made in writing or not. You constitute him a member of the board, to be present continually at their meetings, to dictate his opinions to them, and to exert his influence for their adoption; and yet he himself is never placed upon the record. The effect of these provisions, in my opinion, is simply this: to make this board a mere automaton of the officials of the state, these men who are elected by a partizan vote, and for partizan purposes. This ought not to be, and if my vote will effect anything it will not be.

Mr. HARRIS. Does the objection to which the gentleman alludes, apply to the lieutenant governor?

Mr. CLARKE, of Johnson. It is applied to both the lieutenant governor and governor. The lieutenant governor is to be the presiding officer of this board, and he is to vote in certain contingencies.

I have another objection to this system, which I will briefly state here. Much fault has been found here with the want of attention which the general assembly has given to this subject within the last few years, and of their utter failure to devise a system, which would promote the educational interests of the state. I apprehend that the difficulty in devising and perfecting an educational system for this state, is to be in the fact that it was a difficult subject to manage. The fact that we have not had a better system has perhaps been for our good; for I undertake to say that, if eleven men out of the general assembly had been selected, to whom this whole subject had been confided, as it is proposed to be to this board, the people would have complained more grievously of the system which they would have devised than they now do of the present system. I take this broad ground, that the educational interests of this state are too extensive, combine too many interests, to

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justify us in committing them to the hands of eleven men, with two men to oversee them, and to dictate to them what they shall do. I think it is far preferable to leave this matter in the hands of the people themselves, and let them act through their general assembly.

As an evidence that the gentlemen who are in favor of this system doubt its utility, I cite the fact, that they provide that after 1865 it may be abolished entirely. Suppose it goes into operation with eleven directors, and two overseers; and suppose they have printed rules upon rules, and regulations upon regulations, and they are all to be abolished in 1865. I wish to know if the republican party of this convention are willing to take the responsibility of establishing this system? I ask them, notwithstanding all this outcry that has been made here, about making too great expenses for the state, in the increase of salaries and the creation of new offices, to look at the number of officers they will create by the adoption of this system. We have already made eleven district prosecuting attorneys, and a lieutenant governor, in addition to this board of education; and we have not cut off any officer with the single exception of three district judges. I know that members of the convention are laboring under the idea that we have abolished the office of county prosecuting attorney; but I do not believe it, and I believe that the office will still be found to exist.

What will be the expenses of this system? The lieutenant governor is to be paid like a member of the board. The members of the board are to be paid the same compensation that the members of the general assembly receive, while they are engaged in sessions of the board. They are then to be the directors of schools in their districts, or in other words we are making eleven superintendents of public institution, instead of one as we now have. This office of superintendent of public instruction has become a very odious one to the people. I do not think that such a system will commend itself to the people. If it is to be the duty of these men to travel over their respective districts, inspect the schools and make reports, for which services they are to be paid, the expenses of the system will be enormous, such as for one, I am not willing to incur. And yet unless the members of this board are made superintendents, I wish to know what becomes of your supervision of schools, or the knowledge of them, which this board ought to have in order to enable them to act?

For one, in view of the considerations I have presented, I do not feel willing to incur the responsibility of adopting this system. I do not think that the people sent us here to take any such responsibility. I have been willing to vote for the creation of a board of education, not so much because it met the approbation of my own judgment, not because I had fully examined it and matured it in my own mind, but because it seemed to meet the generally expressed views of the convention. But I would leave the power to the general assembly, which immediately represents the people and their wants, to create that board, specify its powers, and throw around it those restraints which are necessary to secure the rights of the people. If that be done, I think we will have discharged our duty. We will then have placed this system in the hands of the people, and if it does not work well, they will have the power to change and modify it, until they get a system which will secure the object they have in view.

Entertaining these views, I cannot vote for the report made by this select committee; and I have taken the occasion presented by the proposition of the gentleman from Henry, [Mr. Clarke], to say what I have to say upon this subject. If the majority of the convention are willing to take the responsibility of imposing this system upon the people, they have a perfect right so to do; but I, for one, will not be made a party to it.

Mr. HALL. I cannot feel the force of the objections which the gentleman from Johnson [Mr. Clarke], and other gentlemen have raised to this report. I never intimated, nor did I ever entertain the idea during the whole of this discussion that this Board of Education should be established independent of the legislature. The first clause of the article upon the legislative department gives, unequivocally, and beyond all doubt, legislative power to the Senate and House of Representatives. It was never designed or intended to place the action of this Board beyond the reach and control of the legislature, nor could it be done without a complete change in our civil institutions. The gentleman from Johnson [Mr. Clarke] is mistaken in regard to the ordinary features of this report. The fact that we have this article in the legislative department, establishing the supreme power of this government in the legislature, is a sufficient answer to all the objections urged by gentlemen in this respect upon this question.

What are the peculiar features of this report? We propose to give this Board of Education a constitutional existence, independent of the legislature. They are to have their sphere of duties defined by the constitution, and they cannot be interrupted in the exercise of these duties by the legislature. But whatever they do, and whatever object they attempt to effect, the system will be under the supervision of the legislative power of the State, as everything else must be, as the mode and manner of the practice of the courts must be. The legislature cannot change the practice of the courts, but they can change the mode and manner in which that practice shall be pursued. The whole object of the system here proposed is to provide absolutely that this Board shall have their meetings and deliberations, and to secure permanency of action.

Gentlemen who are so continually repeating the argument that we are about to adopt an untried experiment here, might be placed in the same category with the father who should charge

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his son never to go into the water until he had learned to swim. The gentleman from Johnson [Mr. Clarke,] says, that we have a superintendent of public instruction, who has made that office perfectly odious to the people. I do not say whether it is so or not. It is an admitted fact that no one man can discharge the duties of such an office under any circumstances. The office has proved a perfect failure, so far as the capacity of one individual to discharge its duties is concerned. The efforts of the legislature to improve the school system have likewise proved a great failure. Under these circumstances are gentlemen willing to acquiesce in old musty precedents, for fear that if they go one step in advance, they will go wrong? I think if you give permanency to the educational system of the State, establish a character and position for it, that the people will never undertake to control or interfere with it in any way. The funds which are to be used for educational purposes are all in the hands of the State. The board, in their action, will not be governed by any pecuniary interest, and they have but one subject to engage their attention. How then can gentlemen say, that there is danger in this system?

The gentleman from Johnson [Mr. Clarke] supposes that your Governor is going to cajole this board, and that he is going to be their master. He begs the whole question, when he supposes that the people of the different districts of the State will elect, as members of this board, men who will be mere tools for the Governor. I suppose that the people will elect a board composed of quite as competent and able men as the Governor and Lieutenant Governor will be, and who will act according to the honest dictates of their judgments, and who will be enabled to present a system superior to anything we have ever had in this State, from the fact that they will give their undivided attention to this subject, and this subject alone.

In regard to the matter of increased expense, that gentlemen say will attend the creation of this board, I undertake to say that we have reduced, under the new constitution, the expenses of the State four times as much as will pay the expenses attending the creation of this board. We have dispensed with the school commissioners, thirty of them I think, who were officers of school instruction at a considerable expense to the State. And in their place we have placed officers of the State, whose time, so far as it is occupied in legislating upon this subject, relieves the legislature of just so much labor. Gentlemen who complain of the board on the score of economy, should look more carefully into the matter, and they will see that it can be proved mathematically that we save thousands of dollars to the State. It is easy enough to rise here and say that this is to be a bugaboo. It is easy enough to assail its character, to impeach it in advance, to denounce the persons to be elected, to make them the tools of the governor, or whatever you please; but if that is argument, my mind is incapable of being convinced by such argument; nor do I believe it will answer the purpose of the convention.

Mr. CLARKE, of Henry. I beg leave to say in reply to the gentleman that his argument appears to be rather an argument *ad hominem*, which is the last that should be resorted to in order to maintain a position. He certainly had no reason for reviewing me in the way that he has. If I know anything about his report, the main idea of it, and the only idea that the gentleman has any right to assume to be the originator of, or to claim the right of championship in regard to is this board of education in the place of superintendent of public instruction. The powers or duties of that board, the gentleman has no right to claim the authorship of; and so far as the other is concerned, it is a matter which has been suggested here over and over again. It was suggested before the gentleman came here. I had no personal feeling in this matter. I had no objection to it, or to the source from which it came. And I think it was ungenerous in the gentleman to intimate here that I was governed by any other motives than those of conscientious scruples with regard to this, having my own ideas of right and wrong in regard to it. But taking the main idea of this report, which is the board of education, I ask the gentleman when I have opposed that? Have I not sustained it from the beginning? I think we should create the board by the constitution; but all the provisions with regard to their powers and duties, I think we would better leave to the legislature. And a large portion of the members agreed with me, until led away by the sophisms, as I claim, in the arguments of the gentleman, and the sophisms in his bill.

The gentleman attempts to evade the arguments of the gentleman from Johnson, [Mr. Clarke,]—and the same idea has been reiterated by myself and the gentleman from Jefferson, [Mr. Wilson.]—by saying that the legislature which we create is not a legislature superior to the other. That is not the argument. Of course it could make no law controlling the other legislature; but it is a legislature, to all intents and purposes, as much as the other legislature, and they have as great a power, the only difference being that the other legislature could come in after they had made the laws, and amend or repeal them. I say that the position taken by the gentleman from Jefferson is correct, that both of these bodies deriving their powers from the constitution, and the constitution providing that the board shall have jurisdiction over school matters, to make all rules and regulations that are necessary, the legislature cannot forestall them; it can only act after them; but when they have acted, it can either undo what they have done, or amend it. The difficulty, which I shall only suggest, is in having the legislature to act upon the same subject. The gentleman from Des Moines, [Mr. Hall,] admits this. Then I ask how it will operate? What would be the effect under this government, if we had a general legislature called the general assembly, and then

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for every other department or interest of the government a separate legislature? What would be the conflict, what the clashing, what the confusion? Such a government was never heard of, and never will be heard of, unless the gentleman from Des Moines shall lead off in that direction after getting through with these school matters.

The gentleman from Des Moines labored long and loud against having restrictions with regard to incorporations. His cry was—leave this matter to the legislature; all wisdom will not die out when we dissolve; those who come after us will have sufficient wisdom to carry out the system themselves. If that was a just provision, to leave such matter to the legislature, has the argument failed since then? Yet he gets up with the utmost effrontery and says that we offer no argument. It is easier to say it is no argument than to answer it. That is the shortest way of getting rid of some arguments. But I regret that the gentleman should have had such an idea with regard to me as led him to tell that anecdote of his about the holy scriptures. He speaks of somebody as being opposed to the holy scriptures—by implication putting his report on a par with those scriptures—and upon being asked the reason replied, that he was not the author of the holy scriptures, and therefore was opposed to them; and he intimates that the gentleman from Henry opposed his report for the same reason. Now although I might be very happy to be considered as having had some connection with the authorship of the holy scriptures, yet I must say that I have no ambition to be considered the author of that report; and the gentleman need not fear that my ambition will lead me to dispute with him the authorship of that document. The gentleman's anecdote of the man who was opposed to the holy scriptures because he had nothing to do with writing them, reminds me of another, which may be equally to the point. He reminds me of an insane man that I once knew; who would go before a mirror, and look into it and see the reflections there, and then place his hands over it and say, "Isn't it wonderful, this beautiful creature? And I have made it all myself." That is the position the gentleman takes with regard to this report; he made it all himself. And therefore he comes in here and defends every point of it and will not let anything go. If anybody objects to it, it is from unworthy motives. If he gives reasons, they are no argument.

I oppose that report for reasons which I have given here. I oppose it because it will add very much to the expense of this system. I have made a calculation in regard to this matter; and by the closest estimate I can make, this system will cost the people of the state, either through the school fund or in some other way, some twenty thousand dollars per annum. It cannot be carried on for less than this sum. We have provided here for the printing of their reports; we have provided for their circulation. Let gentlemen figure up our printing for the little time of our session here, the expense of binding, of circulation, and all the incidental expenses, and they will find that these incidental expenses, for which the legislature are to provide, for this board will amount to something. They will have to organize, and have their secretary, and a thousand little incidental expenses, which they will have the right to incur under this provision of the constitution, and the general assembly must foot the bill.

Some gentlemen seem to think that the best way is to get out of the dilemma we are in now, whichever course we take. We are upon slippery ground and must go somewhere. They would rather go forward than backward. They would rather take a step in the dark than no step at all. This is all figurative, and hardly applies to our situation. We are here in broad daylight. We have a school fund. We have to make provision in the constitution for the safe keeping of that fund, and for using it for the benefit of the schools of the state. There is no necessity for experimenting at all. The report which Mr. Mann was called upon to make, merely provides for a board of education in this way: that the Governor, the Secretary of State, the Treasurer, the Chancellor of the State University, and the Superintendent of Public Instruction, shall constitute a state board of education, which shall meet annually in the capitol of the state, upon the first Monday in May of each year, and that a majority shall constitute a quorum at any such meeting. That is all the report he makes. Nobody ever heard of such a board of education as we have had proposed here. The gentleman thinks we should have something that will have efficiency. I tell you, sir, that the one man power has always more executive efficiency than numbers. If that is what gentlemen want, why not clothe the Superintendent of Public Instruction with all the powers which are given to this board? Make him an autocrat at once, if that is what gentlemen are after.

Gentlemen are consoling themselves that the people will learn by experience, and will rectify this matter. There is no necessity for this. We have had enough of experience already. We know what we have suffered under one system. There is no necessity for blind experimenting at all. There is no necessity for so large a board of education. There is no necessity for the extraordinary powers which we lodge in their hands, to plunge the state into debt as they can do. I beg gentlemen to stop and think whether it is not better to allow the people to take this subject into consideration, instead of fixing it by placing it in this constitution. Let the people consider the matter, and instruct their representatives how they shall act in regard to it. I think there is hardly a gentleman here who can say that he knows what is the will and the wish of his constituents in relation to this matter. Ought not the matter to be discussed among the people? And shall we circumscribe their pow-

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ers and confine them in their action? That is the question before us. I am not opposed to the entire report of the gentlemen. I am not opposed to providing for a board of education. I am merely opposed to prescribing their powers, their duties, and their compensation, in the constitution. I believe we should leave that to the legislature.

Mr. SCOTT. I do not wish to occupy more than a moment's time. I rise merely for a personal explanation upon this matter. It has been said by gentlemen here that I have advocated a course which will be a very expensive one to this State, and an untried experiment. I will ask the gentleman if he advocates any course at all, whether he does not advocate an untried one? I do not understand the gentleman from Henry [Mr. Clarke] to advocate remaining in our present condition—that we should stand still, and continue to occupy the place where we now stand. And if we advance in any direction, and adopt any other measure than that we have heretofore adopted, I ask the gentleman if it is not a new and untried one? And if his course is a new and untried one, I will ask the gentleman how it is that he stands under these circumstances in any better plight than I do? He advocates an untried system, and so did I. In regard to the expenditures, I have advocated an expensive system, and I am proud of it. I wish to advocate a system which shall go the length and breadth of our land; which shall put officers upon the alert; which shall substitute officers who will make it their business to carry out the system in every single district school, from the north to the south, and from the east to the west, from the Mississippi to the Missouri, in every school district in the State, who will canvass and scour the State, and purge out the uncleanness until the whole system shall be changed, as it ought to be changed; until the old school books are burned up, and new and suitable text-books supplied in their places; until the teachers are brought up to the standard of intellectual and moral worth which they should always occupy. I do advocate an untried and an expensive system. Although it will cost us dollars and cents, it will be well worth all our money. No system can be better worth the money than a system of elevating the common schools of our State. Do gentlemen expect to bring up our schools to anything like the standard which we ought to have, and to have the system unattended with expense? Let the expense come. I am not for subjecting the school fund to that expense. The State of Iowa, with her broad acres, is abundantly able to pay for the education of her children. Let her do it; and let this be the proudest State in the Union, and her common school system the highest.

As I have said, I am not wholly in favor of the system advocated in the report. There are some points which I should be glad to see changed. But I say let us do something. And don't let gentlemen accuse me of taking a step in the dark and advocating a system that is new and untried, when they themselves advocate a system equally new and untried, and equally in the dark. That is talking for buncombe and nothing else. It is talking without object or aim. I say that we have an aim. We wish to make our school system efficient; we want to make it a popular system, suited to a growing state; we want to build up our school system on an elevated standard. We want to make it a system which we shall hereafter be proud of. That is what we ask. Let it be attended with expense; I care not for the expense, provided the money is judiciously expended. I want the whole system sifted and renovated. I want the whole state, from north to south, renovated, cleansed, purged; and if we can accomplish that I care not whether it costs us twenty-one thousand or fifty thousand dollars; if the money is properly and judiciously expended to promote that object, I say that it is money well spent, and I am ready and willing to bear my share of the expense. There is nothing frightful to me in the expense. Of course the more thorough and efficient any system is, the more expensive it will be; and I am willing to double the expense, if the efficiency can be increased in a corresponding ratio.

But it does not appear to me that this is to cost us anything like twenty-one thousand dollars; and I think the figures must be a little stretched, for the sake of buncombe if for nothing else. I have no doubt that the board can be maintained, with its secretary, and its printing can be done, for one-half the money there provided. There are plenty of men abundantly qualified to take places upon this board of education, who would be proud to be placed upon it, and to give their services to the state faithfully and truly, for one-half the sum here allotted them. But it is nothing against the system if the figures are doubled. If you were to double them again I would still advocate it. When the education of the children of the state is at stake, the money necessary to provide for is shall never be a bugbear in my eyes. I say let it be attended with expense if it is attended with benefit. Let the expense come; I am ready for it. I am ready to go for a wholesome system; and if it costs something, I am ready to assist in supporting that cost.

Mr. MARVIN. I rise merely to express the hope that this question which is of so much consequence may not be hastily acted upon. While I suppose there is a most decided majority ready to give their votes against the proposition that is now before us and in favor of the report, I hope the friends of that measure will give every latitude to the expression of views upon it. This is a subject we should not hurry through the convention. For one, I am willing to encamp in Iowa City, and stay until the first of June, if it is necessary, to perfect this system. I think, however, that it need not take so long as that. But if it should take all of to-day and to-morrow, let it be so. Let every man satisfy him-

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self; let him express his views upon this important question; and let there be no gagging by the previous question.

While I am up I desire to say a few things not particularly upon the merits of the question, but in reply to what has been said. I was a little surprised at my friend from Henry, [Mr. Clarke,] when he attempted to picture the ridiculous appearance of men wending their way from Alamakee, and Sioux City, and the distant parts of the state all around, to this city, to sit here and consider the insignificant question of the education of the children of this state; for that was the conclusion which I could not help arriving at from his remarks. And I could not help thinking that he might have gone on and brought the whole system of legislation upon this subject into ridicule; that honorable senators and representatives should come up here from all parts of the state, and spend their time in considering a plan to educate little urchins five or ten years old. How insignificant it is, truly, that at Cleveland, Philadelphia, New York, Boston, there should have been a National Board of Education in session at different times, coming from all parts of the United States, for the ridiculous purpose of considering the subject of education. These great and true philanthropists.

Mr. CLARKE, of Henry. The gentleman certainly must have misunderstood me. I have never thrown any ridicule upon any of these public meetings in behalf of education.

Mr. MARVIN. I do not know that the gentleman so intended it; but certainly when he spoke of the members of the board coming up here from every part of the state, and getting their mileage and *per diem*, &c., it struck me as being intended to appear ridiculous. The truth is that I look upon those devoted to the advancement of education as the philanthropists of the age. You will find hundreds of men wending their way to these large cities, and spending their time for week after week, in considering the means to be adopted to advance education in this country, and not a dollar of compensation do they expect to get for it. And I certainly could not believe it would be so very much out of place that our best men in the state should assemble here once a year for the very same purpose. If it can engage the minds of such men as Gov. Slade and others, whom I might name, if it can stimulate them to action without any compensation, will it not induce our best men, although the compensation may be small, to assemble for the same purpose? I should suppose by the expressions used by some gentlemen here, that they supposed there could be nothing for them to contemplate when they came here, and that they would only follow the dictates of the governor or lieutenant governor. I anticipate that that board will be constituted of men whose capacities will be equal to those of the governor or lieutenant governor, or the President of the United States, if you please. I believe that those who are placed upon this board will be elected aside from political intrigue.

The great objection of one gentleman is that this is an experiment. Why, sir, what is there which we have, that is worth possessing, which has not come from experiment? Is not our government an experiment to this day? And are not those who still doubt the success of the experiment? Are we to be deterred from everything which is new and untried because it is an experiment? It strikes me not.

I was sorry to hear the gentleman from Johnson [Mr. Clarke,] make use of one expression. When the bulk of the population exists in a small space, or a small compass, there he thinks that we find the greatest intelligence. My observation, made in different portions of the country has not accorded with that. Go into your great metropolis, New York, if you want to find degradation and ignorance in their worst forms; or go into any of our large cities. I venture the assertion here to day that Iowa City, with its population of six or seven thousand, has more ignorance and degradation than you will find in any population of fourteen thousand in the rural districts of the state. A city is the last place I would go to, in order to find intelligence generally diffused. The fact is that our rural districts contain some men of intelligence, men whose intelligence no one would call in question. But we all know that under the system under which we have been educated, there is a great lack of general education through all the new country.

In relation to the governor being a member of the board, and acting without his agency going upon the record, I wish merely to correct gentlemen. I suppose that if the governor is a member of the board, he will have the right to vote, and will have the right to place his vote upon the record.

The subject of the real merits of the question, has been so thoroughly discussed that I do not desire, upon this occasion, to enter upon it at all. I am glad that those who are opposed to it are waking up in earnest. It shows some interest in this cause. I hope that friends of this measure, who have fairly made up their minds, after a long and careful investigation, will not be unsettled by the warm arguments in opposition to it. I feel that there is something required beyond what we shall find in the old paths. The fact is that unless something is done by this body, we have no assurance that anything will be done at all. Our legislature has allowed it to go on from year to year, and have been unwilling to do anything in regard to it. Is it not time to adopt a plan which will oblige them to do something? Is it not time to lift the wheels out of the deep ruts into which they have sunk, and place the system upon a new foundation. This is regarded as an experiment. I do not so regard it. I hail it as an omen calculated to cheer those that have an interest directly in this matter.

Mr. GOWER. I did not intend to make any

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remarks in regard to this report. I was in favor of the original report from the standing committee. This appears to be a compromise between that report and that of the minority of the committee. This is the largest committee we have had in this assembly. It is composed of about one fifth of our whole number. I have looked over their report, and I discover that between this and the minority report the only difference appears to be the difference of four or five in the number which the committee consist of. The board are to be elected, but in the one report they are to be elected under a law of the legislature, and in the other under constitutional authority. It matters little, I think, which way they are elected to the office. I do not know that it is very cumbersome in the constitution to provide for the election of the members by the board. Then again, I see that by one report the legislature have power to supersede or reorganize the board after the year 1865, and by the other after 1862; which brings it down to the length of one term. They may then set this aside, and leave it under the jurisdiction of the legislature. These are about all the differences. I went for it originally; and now that it has been recommitted, and received the sanction of so large a committee, I think I shall continue to go for it. I hope, however, that we shall reduce this term from 1865 to 1862.

The question being taken, by yeas and nays, upon the amendment offered by Mr. Clarke of Henry, it was not agreed to; yeas 12, nays 28, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Gray, Hollingsworth, Parvin, Traer, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter and Warren.

Mr. CLARKE, of Johnson, moved to strike out section nine, which reads as follows:

"Sec. 9. The Governor of the State shall be, *ex officio*, a member of said board."

Upon this question—

Mr. HALL called for the yeas and nays, and they were accordingly ordered:

The question being taken, by yeas and nays, the motion to strike out was not agreed to; yeas 13, nays 22, as follows.

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Gray, Hollingsworth, Parvin, Skiff, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Solomon, Todhunter and Winchester.

Mr. CLARKE, of Henry. I move to strike out "contingent," and to insert "all" in the tenth section, and to add, "but no part of the cost or expenses of the said board shall be a charge upon the school fund."

I offer that amendment for this reason. Gentlemen have intimated here that if this works badly the people will learn it, and having learned experimentally of the bad working of the system they will revoke it through the General Assembly, or change it. My experience has been this, and I think that the experience of other gentlemen will corroborate it; that wherever there is a large fund for the legislature to draw upon, and the officers to work upon, their salaries and expenses are very apt to run up pretty brisk, and the draft upon that fund by the legislature will be apt to be pretty large.

Just so far as you furnish the money, the legislature will appropriate it; and just so far as you furnish the money, the officers will use it; and if they draw upon the school fund, the people would never detect it. To be sure they will not get quite so much school money, but they will not go back to the cause of it, and ask why they do not get it. I want none of these little foxes destroying the vines. I want the appropriation to be made so that the people can see and feel the expense that is incurred. I want it to be paid by the people by direct taxation, and then if there is an evil, they will be very apt to remedy it without much delay. That is the only hope I have that the system will be corrected, that the people will learn a lesson from the bite they will receive, and remedy the evil. I do not like the plan, but I accept of it as the last remedy which I can suggest. I feel a good deal with regard to this as a pious old gentleman felt when called up late one night to go down and visit a family, one of the members of which had been bitten by a snake, and was very sick, and at death's door. The old gentleman went down there, and on the way down he got to thinking about this family. They were an ungodly set; they were Sabbath-breakers; did not attend upon public worship at all, and were generally considered the outcasts of the neighborhood. He thought it must be a pretty extreme case, and he found, sure enough, that one of the members had been bitten by a rattlesnake, and was *in extremis*. Of course he did the best he could. When they asked him to pray for him at his bed-side, he spoke of it as a providence sent to the family, in consequence of the many sins of the family. He said that it seemed that in all the providences they had suffered, there had been nothing to bring that family to repentance but rattlesnakes. And now, O Lord, he said, we pray thee to send another to bite John, and another to bite Dick, and we pray then to send a big one to bite the old man, for nothing but rattlesnakes will bring this family to repentance. So in this matter: the only thing I know of to bring the people to repentance, will be to feel the bite themselves, when they find what it is to cost to bring this body together, from the extreme parts of the State, once a year, to legislate upon the matter, when

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they have a large field to launch into, and a large fund to draw upon. When every man is called upon to contribute his share of the expense, he will begin to feel the operation of the poison, and seek an antidote. I therefore make this motion to relieve the school fund from being chargeable with this expense.

Mr. WILSON. I move to amend the amendment, to strike out the word "shall," in the second line, and to insert "may," so that it shall read: "all the expenses may be provided for by the general assembly, but no part of the cost or expenses of the said board shall be a charge upon the school fund." I submit to the convention that we ought to give the legislature power to check the expenses of this board of education. This board having no control over the fund, not being responsible for any appropriation, will not be as careful as they would be if called upon to make the appropriations themselves. And if you make it imperative upon the legislature to pay all their expenses, I do not know where this power may lead them. I wish to leave this discretionary with the legislature. If they find that the board of education are disposed to spend the money too freely, they can stop the appropriations. Thus we give the legislature the control over the board, with regard to their expenditures, without requiring them to repeal the law. They can withhold the appropriations without resorting to the repeal of the law, if that should be the only thing which required a remedy.

Mr. HALL. So far as this amendment is concerned, it appears to me the whole object is to find fault; for if members will read the article in relation to the school fund, they will find that every dollar of this school money, so far as we can appropriate it, is devoted to the maintenance of the schools, and cannot be devoted for any other purposes whatever. Why reiterate it? Is it to encumber it and to make it ridiculous? I do not think the amendment comes from a friendly source, from one who really wishes to improve the article. I cannot think so when I look at the amendment itself. Look at the article upon the school fund and the school lands, and you will see that all the money that falls into this fund, without exception, must be devoted to the support of common schools or the establishment of libraries in the counties. It is made a perpetual fund; and the interest only can be be applied to the purposes of the schools. I should like to know how any one can get around that. The school fund is tied up, fixed irrevocably. The section is well enough as it is. There is no possibility of the school fund being squandered by this board of education. It is merely provided here by way of caution that the board of education shall not levy taxes to meet their incidental expenses, but that the legislature shall provide for that. I suppose they will make appropriations for it as they do for the courts; and the board must come within the appropriation. It is not likely that the people will send here a parcel of spendthrifts to have charge of the subject of education; that they will send up men who will squander away or speculate upon those means. There are too many to corrupt before they can do this, even if they were disposed. I think the section is sufficiently guarded as it is. We have the protection of the legislature; and then, as to the school fund, we have, in the article upon that subject, a provision which makes it safe, and which shows how it is to be applied.

Mr. WILSON. My attention has been called, by the friends of this measure, to the third section in the article in relation to the school fund and school lands, in which the gentleman says this is sufficiently guarded against. I do not think so. That section provides that the moneys specified therein 'shall be and remain a perpetual fund, the interest of which, together with all rents of unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.' How are you going to support them? You are providing for officers to support the schools. Those officers determine what shall be done with the schools; and I apprehend that all the money appropriated for their expenses will be construed as in support of common schools. There is no check upon them at all. I simply ask to strike out the word "shall," that it may not be imperative upon the legislature to grant all the money that the board may call for. I want the legislature to have the discretionary power to stop the appropriations whenever they may think it necessary or proper. That is my object in moving this amendment.

Mr. MARVIN. This is only for the contingent expenses of the board. It cannot be that they will be so great as to require this amendment.

Mr. WILSON. Will the gentleman allow me to correct him? The gentleman from Henry, [Mr. Clarke,] moved to strike out the word "contingent," and mine is an amendment to the amendment. Indeed, "contingent" is a very wide term.

Mr. MARVIN. If gentlemen wish to preserve the school fund inviolate, I have no objection; but I think the third section secures that; and the thirteenth section of this article fixes the pay, making it the same as that of members of the general assembly. I think we can determine that as well as the legislature. And this provision is intended to cover only the contingent expenses.

Mr. CLARKE, of Henry. I will accept the amendment.

Mr. HARRIS. I would vote for your proposition; but I shall vote against it if amended in that way.

Mr. CLARKE, of Henry. Then I shall not accept it, as there is objection to it.

Upon the amendment to the amendment—

Mr. WILSON called for the yeas and nays, and they were ordered accordingly.

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Mr. SKIFF. Before the vote is taken I should like to understand the intention of the mover of the amendment. Is it that the general assembly may have authority to withhold supplies, the same as Congress or parliament may do, and thus block the wheels of this body?

Mr. WILSON. My intention is to give the legislature discretion to pay them or not. If they think the pay ought to be withheld, let them withhold it. That is my intention.

Mr. SKIFF. Then we shall create a legislative body under the constitution, and require them to meet once in a year, and then give the legislature power to refuse to pay them for it.

Mr. WILSON. My intention is to give to the legislature discretion in relation to all appropriations.

The question being then taken, by yeas and nays, upon Mr. Wilson's amendment, it was not agreed to; yeas 11, nays 24, as follows:

Yeas—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Gray, Hollingsworth, Parvin, Traer, Warren, Wilson and Young.

Nays—The President, Messrs. Ayres, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter and Winchester.

Mr. CLARKE, of Henry, called for the yeas and nays upon his amendment, and they were ordered.

The question being taken by yeas and nays, the amendment was not agreed to; yeas 17, nays 18, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Ells, Gibson, Gray, Harris, Hollingsworth, Palmer, Parvin, Scott, Seely, Traer, Wilson and Young.

Nays—Messrs. Ayres, Day, Edwards, Emerson Gillaspy, Gower, Hall, Johnston, Marvin, Patterson, Peters, Price, Robinson, Skiff, Solomon, Todhunter Warren and Winchester.

No further amendment being offered to section ten—

University.

Section eleven was read as follows:

"The state university shall consist of a single institution, and the university fund shall be applied to that institution, and no other."

No amendment being offered to this section—

Common Schools.

Section twelve was read as follows:

"The board of education shall provide for the education of all the youths of the state, through a system of schools. A school shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund."

Mr. WILSON. I move to amend this section, by inserting the word "common" before "schools" in the first sentence. I make that motion for this reason. I find that in the article on the school fund and school lands, in making provision for the fund, we say that it shall be appropriated for the support of common schools. I want that system by which all the youths of the state are to be educated to be secure of that fund, so that the whole may harmonize.

Upon this question—

Mr. HALL called for the yeas and nays, and they were ordered.

The question being then taken, by yeas and nays, the amendment was not agreed to; yeas 17, nays 18, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Ells, Gray, Hollingsworth, Parvin, Scott, Seely, Skiff, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Day, Edwards, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Solomon and Todhunter.

No further amendment being offered to this section—

Compensation of the Board.

Section thirteen was read as follows:

"The board of education shall receive the same per diem and mileage during the time of their session, as members of the general assembly; and, for other services, such compensation as shall be provided for by the general assembly."

Mr. PALMER. There appears to be a misprint here, I move to insert the words "members of" in the first line. It should read, "The members of the board of education shall receive," &c.

The amendment was agreed to.

Mr. CLARKE, of Johnson, moved to strike out the last clause, "and for other services such compensation as shall be provided for by the general assembly."

Mr. WILSON. I take advantage of this motion to submit a few words. I find that a majority of this convention, by a vote which has just been taken, have determined that the common school system in this state shall be abolished. We have determined, by the vote taken here upon the amendment of the twelfth section, to establish a system of schools here, and leave it entirely in the hands of the board of education to say what that system shall be. And I defy the friends of this proposition to find a single clause in either article presented by that committee, that provides that the school fund

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of this state shall be given to any other than the support of a common school system. I understand precisely what has caused that to creep in here. It grew out of the amendment introduced here by the gentleman from Scott, [Mr. Ells,] requiring that all the youths of the state should be educated out of this common school fund. I understand that it was agreed upon in committee, that this word "common" should be stricken out so as to place it in the power of the board to control the fund in order to cut off that portion of the people of the state who were intended to be benefitted by the amendment.

I ask gentlemen to look at this, and if determined that we shall swallow this, whether or no, they would better look out. This constitution goes to the people. And if it shall go to the people with the common school system abolished, I say here now that I would rather it should be defeated than carried. I look upon this system of common schools as one of the dearest interests of the state, one of the most important, one to which we ought to bind ourselves by the closest possible ties. And yet I find a majority of this convention, a convention controlled by a majority of republicans, ready to abolish the common school system of the state, and I find members voting for the amendment of the gentleman from Scott, willing to follow the lead of the gentleman from Des Moines, to the abandonment of that, and thereby to defeat the very proposition heretofore adopted. I think the views of the minority in this convention ought to receive some attention; that instead of rushing blindly, we should look around us and see for ourselves, before we consent to adopt everything they propose.

I hope that the republicans, at least, of this convention, will not take upon themselves the responsibility of annulling the provision of the gentleman from Scott, and abandoning the common school system of the State. I tell you that the day of reckoning will come. This constitution goes to the people; and if you pursue that course, I tell you here that thousands of votes that would otherwise be cast for the constitution will be cast against it. If, for the purpose of carrying out a scheme concocted here by the opponents of that measure, you compel us to send to the people a constitution abandoning that system, to which the hearts of the people of this state are tied and riveted, I defy any majority of the convention to protect the constitution which shall trample the common school system in the dust. You cannot do it. The people of this state will rise in their might, and compel you to take that back. I ask the majority now to reconsider that act; and if they cannot get at it in any other way let them reconsider that vote; or else let us defeat this whole article. I would rather it should all go by the board than to abandon our common schools.

Mr. MARVIN. I do not believe that the gentleman is any more sensitive upon the point he makes here than I am; but he lays more stress upon that word "common" than I can. I had a particular object in my mind when I voted against the word "common." I cannot believe that that gentleman, or any other gentleman who is tenacious of inserting the word, has that point particularly in view. It is absolutely a vital point. I will give my reasons for preferring the section without the word "common." If I am not very much mistaken, the report of Mr. Mann, sent to this state with a draft of a bill or law, made provisions for private schools in the townships. If I had anything to do with making a school law, wherever it was consistent and proper, I should certainly desire to have private schools in the townships. A scholar having attained a certain amount of knowledge, could go to that higher school, and still receive the benefit of our fund. I have myself suffered considerably from being cut off from that. One half of a numerous family have been obliged to forego the benefits of the school fund, because it could not be carried into the graded school, or the academy in the center of the town. This is my object in wishing that word stricken out. I cannot believe that striking it out will preclude any from enjoying the benefit of the common schools.

Mr. WILSON. I call the attention of the gentleman to the third section of the next article.

The CHAIRMAN [Mr. Edwards]. This debate is all out of order. The question is upon the amendment of the gentleman from Johnson [Mr. Clarke].

Mr. MARVIN. I thought I was speaking to the point. I was speaking in reply to the gentleman from Jefferson [Mr. Wilson].

Mr. HARRIS. A single remark. If other gentlemen have spoken out of order, I suppose the rest of us may be entitled to a single word. I only wish to call the attention of the gentleman from Jefferson to the latter part of the third section, which provides for this. I am as sensitive, I believe, upon the subject of common schools, as any other gentleman. I worried the committee some on that very subject. But I believe we can leave out the word in the twelfth section without any difficulty whatever.

Mr. GILLASPY. I was startled, sir, by the remarks of the gentleman from Jefferson; but I do not suppose he frightened any one here. I understood his remarks to apply particularly to the Republican party. If he wants to apply the lash, I hope that we will adjourn, and give him the opportunity to do it elsewhere.

Mr. CLARKE, of Johnson. I call the gentleman to order.

Mr. GILLASPY. He undertakes to say that the people will go for common schools. Now I undertake to say that the report of the committee is for a system of common schools.

The CHAIRMAN. The gentleman is not in order.

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Mr. TODHUNTER. I hope that gentlemen will not be so sensitive, that after getting up in their seats and throwing in a firebrand here, if a gentleman rises to reply, he is met with: "I call you to order, sir;" "Stop, sir;" "Stand, sir;" "Don't say another word."

The CHAIRMAN. The gentleman is not in order.

Mr. SCOTT. I understand that the motion is to strike out the last clause of the thirteenth section. I am entirely opposed to that motion, and I wish to assign my reasons for opposing it. After this board of education is formed, I want the board to have under their charge the common schools of the different districts, and the guardianship of those schools. I want those common schools to be under their immediate care and attention. I wish to have them the ministering angels to watch over and guard those schools, to visit every little flock, wherever they may be gathered together, and to aid them with counsel and advice. I want them to aid the teachers, to give comfort to the schools, to foster and protect the schools. I am willing and anxious that they should be paid for their services. The system has been put in practice in other states with great advantage. It never has been, but it ought to be, put in practice here. The superintendent of public schools in other states visits the different schools throughout the state, so far as practicable, lecturing upon scientific topics, giving wholesome rules and regulations to teachers, aiding them in forming the different classes, in classifying their schools, giving strength to the teacher, permanence to the school, encouraging the weak, helping along the great school system and building it up. This is one of those things we need here, perhaps more than anything else. We need the watchful parental care which has never yet been bestowed upon our schools. I am willing and anxious that the superintendent should take this in charge; and I am also willing and anxious that the state of Iowa should pay him a reasonable compensation for his services, which cannot be done if this clause should be stricken out.

Why are gentlemen so niggardly, I will ask, about the property belonging to the state, when the interest is so great, and when so much depends upon the appropriation? Why is it that they who are so lavish in other matters are so penurious in this, when they will admit in the same breath that this is of more importance than all the other systems, of more vital importance than all else that we have done here? Still they wish to curtail it, and sap its very foundation, by depriving the officers of a fair and reasonable compensation for the services which we expect, or ought to expect, of them. I hope gentlemen will take this matter into consideration, and vote advisedly. I hope they will not vote rashly or blindly upon this proposition. This is of great importance. Let us not withhold the pay, cut off the supplies, force men to act and then say they never shall be paid for acting. The thing is inconsistent. It is preposterous. If we are to block the wheels, let us block the wheels by fair and handsome majorities upon the direct question, and say that we will have no board. But let us not do it indirectly, by cutting off the supplies after we have set them to work. It reminds me of the position of a certain military gentleman, who complained of the fire in the rear. I hope these men will not be subjected to the fire in the rear, by cutting off their supplies; but that we shall do all that we can to aid them, that they may become aid and comfort and protection to our system, whatever that system may be which shall be established.

I hope that no party lines will be drawn here. Let men not be harassed or prejudiced in this way. It is not a party question or a party issue. Let us vote understandingly what we believe to be for the best interests of the State. Let us do what appears to us to be right from the premises we have. And let us vote for a proper system, and then give them enough to pay them reasonably for their services. Let us not say that they shall spend but twenty days, for which they shall receive two or four, and one or two hundred dollars each for coming on here, and then put a protest upon their action beyond this, lest they should make a claim for services to the amount of two thousand dollars each. That is no bugbear to me. I say that we should pay them reasonably for all that they do. Let us not block the wheels, but let them be reasonably paid for all the services which the legislature may think proper to put upon them. Let the legislature pay them for such services what is reasonable and just, in the same way that they make appropriations for other services. I am willing to trust the matter to the legislature. I will run the risk of their abusing this power. I have no hesitancy upon that point. If the system shall be a failure, the legislature will not be the first to find it out. The people will find it out long before the legislature do. I hope that gentlemen will vote not to strike out the supplies; I look upon this last clause as one of vast importance.

Mr. CLARKE, of Henry. The convention having voted down the amendment offered by me, by which I wished to save the school fund, the next thing left for me is in every way that I can to diminish the expense of this system. I believe it is to be a pernicious system; that it is to work evil. I believe that if you clothe men with constitutional powers, and allow them to come here and stay in session for twenty days, coming from distant parts of the State, the amount which this will grow to, without any other services, will be far above ten thousand dollars by the time they have had all their printing done, and have scattered their laws through the State. If you allow this provision to remain as it now stands in this section, I believe that it will swell the amount beyond twenty thousand dollars. It is provided that for

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their services coming here, and while in session, they shall receive the same mileage and *per diem* as members of the General Assembly. In the plan proposed by Mr. Mann to the legislature, the Board of Education were to receive nothing as *per diem* from the State, but merely enough to pay the actual expenses of the sessions of the Board. If this clause stands as it is, the members of the Board will receive for their services such compensation as shall be provided for by the General Assembly. What then will you have? You will have a Board of Education who will be in session just before the legislature come together, who will have an extra session, and then will come before the legislature and resort to all the log-rolling schemes to which men will resort when claiming extra pay, for such compensation as the legislature may think fit.

I wish to God that human nature was such as gentlemen say it is, and vainly attempt to make me think it is. I distrust it. We have reason to distrust it. We are taught to distrust it by the example of every general assembly which meets in these halls. We are taught to distrust it from what we see going on in the highest legislative body in the land. We see some of the first men in the nation coming out and resigning their seats in congress, charged with this same kind of frauds, and public plunder. When we see what is going on all around us, shall we set a snare to entrap our citizens in a similar system? Shall we provide that they shall meet and contract debts, and then call upon the legislature to give them greater pay? And how much extra pay? Where is it to end? One session would not enact it. You are establishing a system of public plunder. I stand here at this moment of its inauguration, and enter my solemn protest against it. I do certainly know that the future will satisfy gentlemen that there is something besides mere personal feeling in the reasons that actuate the minority upon this question. The powers and duties are fixed; let the compensation be fixed. Do not leave half of it to the legislature, while you refuse to leave it all. It is because this matter is left open in that way, that I believe it will institute a system of coming here, and then charging extra compensation beyond what the constitution provides. That is one reason why I oppose this; that this question is left open.

I am surprised that the gentleman from Clayton [Mr. Scott,] should persist in using the words humbug and buncombe in regard to the statements made here in relation to the expenses of this board. Other gentlemen upon this floor, who have not uttered a word upon this question, are firmly of the opinion that the expenses of this board will be more than I have stated them. I do not believe that the gentleman from Des Moines himself [Mr. Hall,] expects them to fall short of that, when it shall be footed up at the end of the year, adding up the expenses of the board, their incidental expenses, and what the legislature may allow in addition. It is not because I am afraid of dollars and cents, when dollars and cents are properly applied. If this was a provision to put into the school fund twenty thousand dollars a year more, to be distributed among the districts of the State, to go directly towards the education of the youths of our State, the gentleman would find that I would stand up with him; yea, and to double the sum. But when you come to take twenty thousand dollars away from the fund, and from those who ought to have the benefit of it applied to their education, and pay it to officers, thirteen of them, all of them drawing like so many leeches from this school fund, then I say that dollars and cents have something to do with the question. I do not admit that my soul is any smaller than that of the gentleman from Clayton, [Mr. Scott.] My earnest desire here is to protect this school fund, and to have it applied to its legitimate objects; to have it go to the education of the children of the State, and not into the pockets of office-holders. That is what I am voting for. Let us strike this out, and let us not allow this board to swell up their charges against the State, by log-rolling in our General Assembly after extra pay for extra sessions, indefinite, undefined in the constitution, and which we do not know the value of.

Mr. SCOTT. I merely rise to say that the gentleman from Henry [Mr. Clarke,] will notice that I have never advocated nor voted for the paying of those officers out of the school fund.

Mr. HALL. In the first place this article does not authorise the board to create any extra sessions whatever. They cannot give employment to themselves by their own action. But if the General Assembly think proper to give them other duties, this is to provide that they shall be paid for performing them. There is no proposition fairer than that. If the legislature think it is proper that these persons should be employed in this great cause, beyond the amount of sessions required of them annually, should they not provide for payment? It striks me that the proposition answers itself. It does appear to me that the conduct of gentlemen towards this bill, is a good deal like that of the Quaker towards the dog, when he said to it, "I will not kill thee, nor hurt thee, but I will give thee a bad name," and then raised the cry of "mad dog," and the neighbors rushed forward and killed the dog. These arguments about extra wages have no weight whatever. It is merely an assault without reason.

The gentleman from Jefferson, [Mr. Wilson,] got up here and invoked his party as a party, to come to the rescue. Now, Sir, upon this measure I have sunk all my party feelings. I hope to God that the time will never arrive when the parties shall be arrayed upon the subject of common schools, and this system and that system shall become party measures. I hope no one will be driven into opposition to this measure by any such appeal. To my mind such appeals are wrong, unjust and improper. One spreads the alarm, and the other appeals to his party.

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The proposition is too simple to need argument. The gentleman from Henry, talks about extra pay. There is no such idea in this article, nothing of the kind. It is a slander upon the article: it is misstating its plain reading; and why should gentlemen seek to do that? We provide payment for such services only as the constitution puts upon the board; and if the legislature think proper to provide other services for that board, services not contemplated in this article, then it is no more than right that the legislature should provide pay for these services. That is the whole story. I do not think there is any force at all in the objections that have been made.

Mr. SKIFF. Gentlemen need not be frightened at all; I do not rise to move the previous question. I have been a little grieved to see the two parties that have arrayed against each other in this conflict, not the democrats and republicans, but the friends of this majority report, and the friends of the minority report. It seems to me that those in the minority in this case, have sounded their bugle and called all their men to the rescue, to come up and help them here. I have endeavored, so far as I am concerned, to keep my feelings upon proper grounds, and whenever any amendment has been proposed by any gentleman upon the other side, I have scanned it, and some of them I have supported. I supported the amendment of the gentleman from Jefferson, [Mr. Wilson, and hoped it would prevail, although I did not consider it anywhere near so important as he does. But although not considering it of so much importance as he, I did consider it important. If the gentleman will turn back to the eighth section, he will find that the board of education are to have full power and authority to legislate and make all neeedful rules and regulations in relation to common schools and other institutions of learning that are instituted to receive aid from the school or university fund of this state. This very same board has that power already. It seems to me that if the word is stricken out from the twelth section, this very article enforces upon the board of education the duty of providing a system of common schools. I ask the gentleman from Jefferson to examine it and see if it would not. So far from this being done in order to abolish the common school system, I think the gentleman is altogether mistaken. But that matter is not under discussion and I leave it.

The gentleman from Johnson [Mr. Clarke] moves to strike out a portion of section thirteen. Suppose that should be stricken out. Then suppose that the general assembly should impose upon this board of education certain duties aside from their regular session, appointing them perhaps superintendents of the schools in their respective districts. Would not the general assembly have full authority, without this clause, to pay them for it? Most certainly they would. If they impose upon the board other duties than those which the constitution requires, they should also provide some means of paying them for the performance of those services. That is already provided for in the constitution. If this is stricken out, it will not do any harm; if it remains, it will not do any harm; the same thing is provided for in either case, as I look upon it. It is in the article now. This article has been prepared with a great deal of care and ability. Before I shall vote for any amendment, I shall scan it very closely. If the wisdom of the convention convinces me that we ought to make an amendment, then I will vote for it. I want to get a school system, the best both for common schools and for the higher order of schools, that can be devised. If gentlemen think I am following off in the wrong lead, because most of the Democrats of this convention are supporting the same system, I admit that this very fact has made me examine it more closely than I might otherwise have thought necessary, to see if there was not some little trick in it. But I did not find any trick in it at all. And I came to the conclusion that the measure is just and honest, as it appears to be, and just as fairly and sincerely maintained by the originator of it, as he ever maintained anything in the world, even his own family. Now I do not want to see any of my Republican friends scared off in this matter by any of these outside cries, calling to the rescue. Whenever anything in the Republican party is in danger, I am always on hand; but to the Republican party a common school system, or any kind of a school system, is not known; to the Democratic party it is not known; to any other party it is not known; but the people of the state of Iowa are all known together, and I hope they will stay together. I do not like to hear the partisan cry raised in this matter.

Mr. CLARKE, of Johnson. Having made this motion, it is perhaps respectful to the convention that I should give my reasons for it. My reason for moving to strike out this part of the section is, that it is not honest upon its face. The object of it is just this; and the gentleman from Clayton [Mr. Scott] has foreshadowed it. It is to give the legislature power to make the members of this board district superintendents; or, in other words, to place in the hands of the general assembly the power to create twelve or more superintendents in lieu of the one we have now. Then why not say so? Why not put the design right upon the paper, that the people may know the kind of system they are voting for, and the expense of which is to fall upon their shoulders? That is the object and purpose of it. The original report, when sent back to the committee, did provide that the board of education should be the superintendents of the schools in their respective districts. But gentlemen anticipated that that would look pretty large, and the people might not like it, and the people might vote against it. Therefore, for the purpose of removing that objection, they strike that out, and put in a clause allowing the general assembly to impose the duty on them. The object is to make the board of education

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the superintendents of the schools in their several districts, and to pay to them such a salary as the general assembly may provide. But it is not honest upon its face. It is calculated to deceive the people. I move that the convention adjourn.

Mr. SCOTT. If the gentleman will withdraw that motion, I will move that the convention take a recess until 7 o'clock this evening.

Mr. CLARKE withdrew his motion to adjourn for that purpose.

The question being taken, by yeas and nays, upon taking a recess, the result was, yeas 19, nays 16, as follows:

Yeas.—Messrs. Ayres, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Patterson, Peters, Price, Robinson, Skiff, Solomon, Traer, Warren and Winchester.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Johnson, Clarke of Henry, Ells, Gower, Gray, Hollingsworth, Palmer, Parvin, Scott, Seely, Todhunter, Wilson, and Young.

The convention accordingly took a recess until 7 P. M.

NIGHT SESSION.

The convention re-assembled at 7 o'clock P. M., and was called to order by the President.

Committee on Accounts and Expenditures.

Mr. GIBSON offered the following resolution:

"*Resolved*, That Messrs. Clark, of Alamakee, and Price be added to the committee on expenditures."

Mr. CLARKE, of Johnson. I am a member of that committee, and I should like to know some reason for this resolution. I am not yet aware that the committee have had any difficulty about agreeing concerning anything that has been submitted to them.

Mr. GIBSON. The committee on expenditures is a very important committee. I understand that upon that committee will depend the mileage of members of this convention, and the other expenditures of this body. I believe there are but three members upon that committee now; the usual number for such a committee is five. Why this was formed of a less number of members I do not know. I selected the gentlemen I have named in my resolution, one from the extreme west, and the other from the north part of the state, in order that each portion of the state might be fully represented upon the committee. It will only increase the number of the committee to five, which is the usual number for such a committee.

Mr. YOUNG. I do not think that the reasons assigned by the gentleman from Marion [Mr Gibson] are very cogent. The committee have never asked for any addition to be made to their number. I think there is plenty of time for such a resolution as this, after the committee shall come in here and request us to give them these two additional members. The labors of that committee are not very heavy, any way.

The PRESIDENT. The chair will read rule six of the standing rules of this convention.

"6. All committees shall be appointed by the President, unless otherwise specially ordered by the convention, in which case they shall be elected *viva voce*."

It is for the convention to determine whether this rule applies to this resolution.

Mr. CLARKE, of Johnson. There is more meant by this resolution than appears upon the face of it. In the first place, it is certainly discourteous to the chair. There is something here I do not understand. This committee have not had any meeting yet; they have had no opportunity to differ upon any question upon which they will be called upon to act. It appears to me that this is an unparliamentary proceeding, one discourteous to the chair, and entirely unparalleled in the history of legislation.

Mr. GIBSON. I believe this convention has, in a number of instances, added members to a committee, and no objection has been heretofore raised to that proceeding. And I do not see why the gentleman is so sensitive upon this point now. I have no desire to press this matter. It was only after consultation with a number of members of the convention that I offered this resolution. I intended no discourtesy to the gentleman from Johnson at all.

Mr. CLARKE, of Johnson. It is none to me.

Mr. GIBSON. It was only at the request of a number of members that I offered this resolution. It was thought that it would be well to have upon this committee, members from different portions of the state.

The PRESIDENT. The chair begs leave to state that he takes no exception to this resolution, and does not regard it as any discourtesy to him. He read the rule merely for the consideration of the convention.

Mr. YOUNG. I move to lay this resolution upon the table.

Upon this motion—

Mr. WARREN called for the yeas and nays, but they were not ordered.

The question being then taken upon laying the resolution upon the table, upon a division, it was not agreed to; yeas 11, noes 13.

The question recurred upon the adoption of the motion.

Mr. YOUNG. I would ask if, according to the rule just read, the adoption of this resolution would carry the appointment of the two gentleman named therein?

The PRESIDENT. The chair is of opinion it would.

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Mr. MARVIN. I think the resolution should lie over a day.

Mr. GILLASPY. I do not know anything about this resolution, neither do I care anything about it. But I would state that it has been the practice of this convention to add members to a committee upon the motion of a single member, specifying by name the persons to be so added to committees. I think the gentleman from Lee, [Mr. Johnston,] was added to the military committee upon my motion.

Mr. GIBSON. At the request of the gentleman from Alamakee, [Mr. Clark,] I ask leave to modify the resolution by withdrawing his name, and substituting that of the gentleman from Clayton, [Mr. Scott,] in its place.

Mr. SCOTT. I think my consent should be gained before my name is used for any such purpose. I have never been notified of any movement of this character, and have consequently not taken the matter into consideration. It is seldom that I shrink from the performance of any duty assigned me; but I would ask members of the convention to excuse me under the circumstances, as I have as good reason to ask to be excused as the gentleman from Alamakee, [Mr. Clark.] He resides in the northern portion of the state, and he can well represent that portion of it. I hope the gentleman will excuse me from suffering my name to be used in this connection. I do not wish to avoid any labor that may be put upon me. But as that is a very important committee, I do not think I am the proper person to be placed upon it.

Mr. GIBSON. I will withdraw the name of the gentleman from Clayton, [Mr. Scott,] and retain that of the gentleman from Alamakee, [Mr. Clark.]

Mr. TRAER. Would a motion to indefinitely postpone this resolution be in order?

The PRESIDENT. That motion would be in order.

Mr. TRAER. Then I move that this whole subject be indefinitely postponed.

Mr. CLARKE, of Johnson. Before this question is taken we might just as well know what we are doing here as not. As I understand this resolution, it is an effort to so constitute the committee on expenditures that certain gentlemen can draw mileage around through the state of Illinois, in coming to and returning from this convention. Now this committee have not had a meeting; but still gentlemen suppose they will report against computing mileage upon any such plan. And, in order to secure a majority upon the committee, who will favor such a proposition, an effort is made here, as was made in the legislature last winter, to pack the committee by placing upon it two gentlemen in favor of that project.

Now this is not courtesy to the committee. There is no precedent for it in the previous action of this convention. It is true members have been added to committees upon the motion of a single member; but that has always been after those committees have reported, and their reports have been recommitted to them, except when the gentleman from Wapello, [Mr. Gillaspy,] moved to add the gentleman from Lee, [Mr. Johnston,] to the military committee, which was regarded by all at the time in the nature of a joke.

Now I am as willing to meet this matter here as in the committee. Let those gentlemen who are in favor of allowing mileage around through Illinois, and down the Missouri and Mississippi, vote for this resolution. The object is to so stack this committee that they may get the mileage. That is what is designed, and I want the convention to understand it.

Mr. WINCHESTER. I do not understand that this is what we came here for to-night, and I therefore call for the previous question.

Mr. PRICE. I hope the gentleman will withdraw his call for the previous question, that I may have an opportunity to say a few words upon this subject.

Mr. CLARK, of Alamakee. I desire to have an opportunity to say a few words of explanation.

Mr. WINCHESTER. I withdraw the call.

Mr. PRICE. I know nothing of this proposition, so far as it proposes to appoint me as a member of this committee; it is entirely new, so far as I am concerned. But I certainly repel any imputation, if meant to apply to me, that I would favor any allowance of mileage for going around through the State of Illinois, or by any other than the most direct and practicable route. It is too small a matter with which to contaminate myself. This small amount of mileage, more or less, would not influence me in establishing the rate of mileage here. I am not parsimonious, and have no desire to take from the State more than my due. If the gentleman thinks that I would be in favor of mileage other than that which is just, right and proper, I cast back the imputation, and tell him I am not of that sort of persons.

Mr. CLARKE, of Johnson. I did not mean to cast any imputation upon the gentleman from Pottawatamie, [Mr. Price.] I think he is too honorable and high-minded to allow himself to be used for any such purpose. But I do say, that what I have indicated was the intention of this resolution, and it was supposed by those who got it up, if not by the mover, that the gentleman from Pottawatamie, [Mr. Price], and the gentleman from Alamakee, [Mr. Clark], would be in favor of this measure in regard to mileage.

Mr. CLARK, of Alamakee. I certainly have no desire to say much upon this question. I was sorry that my name was brought forward in connection with this matter. But it is here now. And permit me to express my deep gratitude to the gentleman from Johnson, [Mr. Clarke], for the compliment he has paid me. There can be no force in the remarks of the gentleman as to the object of this resolution,

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unless that object could be carried from the mover to the objects moved upon.

Now, if the gentleman from Johnson [Mr. Clark] means to insinuate that because I live in the northeastern part of this State, and may travel through Illinois to go home, therefore I may be induced to disregard my duty, and the nature of the statute that called us together here, all I have to say is, that he doubtless followed the old rule of judging others by himself, and according to that it is a righteous judgment; and yet I cannot thank him much for the compliment.

Now, why does the gentleman manifest so much feeling upon this subject? This resolution is not one of an unusual character. Why does he seem to be so fearful that there will be a majority upon this committee who will be in favor of a liberal construction of mileage? Is he in favor of drawing the strict lines in this matter because he himself cannot be benefitted by a more liberal construction? Is that the reason he is so tenacious in his opposition to this resolution?

Now, there are two sides to this question. I, for one, do not ask anything from this convention, or from the State, but what I am strictly and legally entitled to. And I am perfectly willing that gentlemen should follow me to where I reside, and ask my fellow-citizens whether I am avaricious or not.

I have nothing to say about this resolution. I care nothing about it. I certainly think I shall be in favor of voting for a resolution to have some members added to that committee. I am not willing to have the committee as it is now constituted, when one of its members has manifested the feeling that the gentleman has shown upon this question, and who has committed himself against allowing any mileage except that computed according to the strictest measurement, and taking exception to the course of the legislature of this winter in relation to this matter.

Now after seeing the position in which the gentleman has placed himself here, I ask the convention to take this matter into consideration, and decide by their vote upon this resolution whether they are willing to have a report upon this question made by one who has got up here, and committed himself so far as to sit in judgment, not only upon the members of this convention, but upon the legislature who were in session here this winter.

I want nothing myself but the legal rate of mileage; I would not take more if the convenvention would give it to me. And in the next place, I want to say this, that it is not in the power of this committee to control this subject either one way or the other. Suppose that this convention does see fit to give me only half or none, of what I am entitled to. That does not preclude me from presenting my claim to the next legislature that sits here. This convention is not quite omnipotent in this matter.

I do not think this policy, this picayune policy, this idea of having a committee who occupies the position the gentleman from Johnson [Mr. Clarke,] has occupied here to-night, to report in favor of jewing down this matter, and closely calculating the days and hours of attendance, the feet and inches of travel, and the dollars and cents due, in order to make out the mileage and compensation of members of this convention—I do not believe this will meet with so much favor at the hands of this body.

Mr. EDWARDS. I can see no necessity at all for this resolution. If I had any evidence that the committee on expenditures, as at present constituted, would not do justice to members, or could not agree upon this or any other subject, I would be perfectly willing to vote to increase their number. But if it is necessary, without any such evidence as that, to increase this committee from three to five, according to the same reasoning it would be necessary to increase it seven, and so on *ad infinitum*. When we have some evidence that this committee are not disposed to do justice, it will then be time enough to increase their number.

Now I hope that in regard to the subject of mileage they will be inclined to do justice to gentlemen. But, at the same time, we have a law to go by, and we have taken an oath to discharge faithfully our duties here. And if the report of the committee in regard to mileage is not in accordance with the strict letter of the law, and does not allow mileage to gentlemen according to the most generally traveled route from their places of residence to the seat of government, I shall feel bound by my oath to go against it.

It is a matter of small importance what the pay and mileage of a member may be. We were all elected with a distinct understanding of what that would be. And I hold that it is a wrong principle that has been adopted by the legislatures in some states, to whip the devil around the stump, so as to get more than the law allows. I think it is morally wrong and should not be practiced. And I, for one, will go against any proposition to allow any gentleman more mileage than the law would allow him, by the usually traveled routes; and if this committee should do wrong to any member of the convention, he would have the right, after the report was made, to call the attention of the convention to the matter, and have it rectified.

Mr. PARVIN. As a member of this committee on expenditure, I would ask the convention to excuse me from further service upon that committee.

The question being taken upon excusing Mr. Parvin from further serving upon the committee on expenditure, it was not agreed to.

Mr. GIBSON. I think it is due to myself, that I should offer some explanation in regard to this resolution. I have been, as the author of this resolution, attacked by the honorable gentleman from Johnson, [Mr. Clarke,] in, to say the least of it, a very uncourteous, if not a

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very ungentlemanly manner. He has impugned my motives, without any just provocation so to do. He has intimated that I desired to take from the state that to which I was not entitled. That charge is absolutely and entirely without foundation.

In offering this resolution, I did not commit myself either one way or the other upon this question. I did not say whether I was for or against a liberal construction of mileage. I only asked that this matter might be taken into consideration; and in order that it might be investigated by a committee that should not be prejudiced either one way or the other, I asked that all portions of the state might have an equal representation upon that committee. I had no intention of forestalling the action of that committee. I had no intention of dictating to that committee. All I wanted was to have the extreme portions of the state represented upon it, and I think the convention will bear me out in this matter.

And I ask that gentlemen will not impugn my motives without some cause for so doing. It is unworthy of a member of the standing of the gentleman from Johnson.

Mr. CLARKE, of Johnson. I regret very much that my remarks have created this very little tempest in a very large teapot. Gentlemen seem to manifest a great deal of feeling upon this subject. But if the suspicion, which entered my mind the very moment this resolution was offered, has not been fully borne out by the conduct of gentlemen here, then I am very much mistaken. They may deny that there is any wrong intention here; they may say that their motives have been wrongly impugned. But I say why should they, before a report is made from this committee, before the committee has taken any action upon this question,—why should they bring in a resolution here to put two more members upon that committee, and nominate those two members in the resolution? Why was it, but from fear that the report of this committee might not meet the views and wishes of certain gentlemen? Why was it, but to carry out a certain line of policy, that they have marked out for themselves, and to obtain a majority report from that committee in accordance with that line of policy?

I will not say that the two gentlemen they selected knew what was sought. I will do the gentleman from Pottawatamie, [Mr. Price,] and the gentleman from Alamakee, [Mr. Clark,] the justice to say that I do not suppose they were selected, with their understanding that they would carry out the object sought to be obtained. But they were supposed to be in favor of these peculiar ideas upon the subject of mileage. If that was not the reason, then I want the gentleman from Marion, [Mr. Gibson,] to tell the convention the real reason for offering this resolution. There was no other reason on the face of God's earth.

Gentlemen may deny it; they may claim that their motives have been wrongly impugned. But I say upon my own responsibility, that the only object and purpose of that resolution was to stack the committee so as to obtain a report conformable to the views of certain gentlemen upon this subject. I say so, because I have been felt upon this question, because I have been approached to find out my particular views upon this subject, to learn whether I was in favor of allowing mileage around through the state of Illinois, by the way of Dubuque or Burlington. And without committing ourselves, they have been led to suppose that myself, and perhaps the gentleman from Muscatine, [Mr. Parvin,] would be opposed to any such proposition. That is the object of this whole movement, or else it is objectless. There can be no other purpose in it, except it may be to introduce something into the convention that would consume our time.

If that was not the object and purpose of this resolution, then I call upon the gentleman to state what was the object of introducing it. I have nothing to take back of what I said, because I have said only what I believed to be true.

Mr. GIBSON. I will state the object of this resolution. If the gentleman has reference to me, as having felt around him either one way or the other—

Mr. CLARKE, of Johnson. No sir; I did not refer to the gentleman.

Mr. GIBSON. I never have had a word with the gentleman upon this subject. I do not know, other than second-hand, what his views are upon this matter. Neither have I said one word this evening, in advocating this resolution, concerning the subject of mileage, either *pro* or *con*.

All I desired to accomplish by this resolution, was to have the different portions of the state fully and fairly represented upon that committee. The committee, as now constituted, are all from the eastern part of the state, and only three in number. It could not make the committee cumbersome to add two more to its number. And I named two gentlemen from opposite portions of the state, without consulting them, so that the whole state might be represented upon this committee. That was my object, and I had none other.

I am prepared to abide the decision of the committee upon this question, for, as my friend from Alamakee, [Mr. Clark,] has remarked, if they do not allow me any mileage, I reckon I can get home at my own expense. I did not come here to pilfer from the state; I only came to ask my right. And in doing this, I claim that this committee would have a disposition to give us our rights. That is all that I ask, that is all I want.

The gentleman must be very suspicious to impugn my motives in offering this resolution, without my saying a word one way or the other upon the subject of mileage. It must be that he knows that he is committed to a narrow con-

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tracted policy, to say the least of it, and he is afraid to have other gentlemen upon the committee, for fear they may change the complexion of the committee upon this subject. I think the remarks of the gentleman were uncalled for and very improper.

Mr. CLARK, of Alamakee. I wish to say one word, and but one word only. I may, perhaps, have expressed myself rather warmly, more so than I should have done. But the remarks of the gentleman from Johnson, [Mr. Clarke,] touched my feelings. I thought they were meant directly to impute improper motives to me. And whenever that is intentionally done in any body, here or elsewhere, I must express myself warmly, more so than I would upon other occasions.

I have seen no reason to change my mind, from what it was before, in regard to this resolution. I wish simply to say that I appreciate the motives which prompted these thrusts at me, and having said that, I am willing to let the matter rest.

Mr. CLARKE, of Johnson. The gentleman from Alamakee, [Mr. Clarke,] and the convention, will certainly understand that I did not intend to impugn his motives at all. I stated expressly that I did not believe he had been consulted in regard to the use of his name in connection with this resolution. I am not in the habit of impugning the motives of gentlemen when they have done nothing to justify me in doing so.

The question recurred upon the motion to indefinitely postpone the resolution.

Upon this motion—

Mr. PETERS called for the yeas and nays, and they were ordered accordingly.

Mr. CLARK, of Alamakee, asked to be excused from voting.

The question being taken, upon a division, the gentleman was excused; ayes 17, noes not counted.

Mr. PARVIN asked to be excused from voting on this question.

Mr. PRICE also asked to be excused from voting.

The question being taken, both gentlemen were excused.

The question being then taken, by yeas and nays, upon the motion to postpone indefinitely the resolution offered by Mr. Gibson, it was agreed to; yeas 15, nays 14, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Skiff, Traer, Wilson, Winchester and Young.

Nays—Messrs. Day, Emerson, Gibson, Gillaspy, Hall, Johnston, Palmer, Patterson, Peters, Robinson, Scott, Seely, Solomon and Warren.

Board of Education.

The Convention then resumed the consideration of the report of the committee on education and school lands.

Compensation of the Board.

The PRESIDENT stated the question to be upon striking out of section thirteen the words, "and for other services, such compensation as shall be provided for by the General Assembly;" so that the section will read—

"The Board of Education shall receive the same per diem and mileage, during the time of their session, as members of the General Assembly."

Mr. HALL. There has been an interchange of views, upon the subject of this report, among members of this convention, since the close of the afternoon session, which, I am very happy to say, has, as I believe, resulted in a harmonious agreement.

And in order to facilitate matters, I would wish to have this report taken up again from the beginning, and have those amendments made to it which has been suggested. The friends of this report, who have acted with me, will not, I think, object to this course, and perhaps we can dispose of this article in a very few minutes; I hope so, at least.

Mr. PARVIN. I would ask if the question must not be first taken upon the pending amendment, submitted by the gentleman from Johnson, [Mr. Clarke]?

The PRESIDENT. Unless it is withdrawn by the mover.

Mr. PARVIN. This amendment proposes to strike out a part of this report, which gives the General Assembly the control of this board. I am opposed to that amendment. It proposes to strike out just what I desire to have in, a provision giving the general assembly the control of this board. And now the gentleman from Johnson proposes to strike that provision out entirely.

Mr. CLARKE, of Johnson. The gentleman is mistaken. My amendment is simply to strike out these words—"and for other services, such compensation as shall be provided for by the general assembly."

Mr. PARVIN. I am not mistaken. The portion the gentleman proposes to strike out is precisely that which places this board under the control of the general assembly, in reference to this part of their duties. I wish to have the board of education altogether under the control of the general assembly; and it was for that reason that I voted for the amendment of the gentleman from Henry [Mr. Clarke,] to leave to the general assembly to fix the term of office, duties, and compensation of this board.

I think it often happens, as it happened this afternoon, that people under a little excitement, having their minds fixed upon a favorite measure, do not stop, when a movement comes from one who is opposed to their measure, to examine whether it is right or wrong, but vote against it,

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because the proposition comes from an opponent, or an enemy, as they consider him. Such I think was the case in regard to an amendment offered by the gentleman from Jefferson, [Mr. Wilson,] which I think is necessary in order to avoid confusion hereafter. I cannot think the friends of this report would have objected to that amendment, had they given it the second thought. I believe they voted against it merely because it came from one whom they considered an enemy to this report.

Now I do not believe there is a member here who has any object in view, except the good of the community, and the welfare of the rising generation, by providing such a system of common schools as they need. This word "common" is, I think, misunderstood by my friend from Jones, [Mr. Marvin.] It means nothing more than that the schools shall be common to all, the rich and the poor. That is where the commonness of the system is. It does not mean a particular grade or class of schools, but merely that the child of the beggar, and the child of the millionare, shall have the benefit of the school in common. It is for that reason that I wish to have the word "common" inserted.

There is another matter I will allude to here. I hesitate about proposing the amendment for fear it will be voted down, because I am considered an enemy of this report. I do not wish this board of education to heve unlimited power in regard to their expenses, as the legislature has. It is not necessary, when this board meet together, that they should appoint a sergeant-at-arms, a door-keeper, and all the retinue of officers common to the general assembly. I desire to have an amendment introduced that will cut off all this unnecessary expenditure. I do not think it is necessary for this board, when it meets together, to have that amount of correspondence that members of the general assembly have during a long session; therefore, I would let them pay their own postage; and, if a *per diem* of three dollars is not enough, I would give them more. I think that, by this plan, we might cut off much unnecessary expense.

I throw out these suggestions, and hope that some friend of the bill will offer an amendment to accomplish the objects I have indicated. I am afraid it will be voted down if I move it. And I hope that some member who voted against inserting the word "common," before the word "schools," will move to reconsider that vote. It can do no harm at the worst.

Mr. WILSON. I think the gentleman from Muscatine, [Mr. Parvin,] labors under a mistake as to the effect of the amendment of the gentleman from Johnson, [Mr. Clarke.] It proposes to strike out that portion of the thirteenth section which gives the legislature power to grant extra compensation for time that they are not in session. If the gentleman will look over the provisions of this report he will find that the only compensation to which this board is to be entitled, will be their *per diem* and mileage. And this amendment is to cut off the possibility of the legislature giving them any further compensation.

I wish to say a few words in relation to the arrangement that has been entered into between the friends and the opponents of this article. The friends of the article have agreed with those who opposed it to-day, to consent to certain amendments being made to it. And although we have opposed this article throughout, and are not satisfied with it, even with those amendments, yet, if they are made to it, we are willing to support it. And I presume that, as the gentleman from Des Moines, [Mr. Hall,] has suggested, we can go back and have these amendments inserted.

The first amendment agreed upon is to strike out the word 'board,' where it occurs the second time in that section, and insert the words 'general assembly,' in lieu thereof; and also to strike out the last sentence, which reads as follows: "No regular session of the board shall be held during the time the general assembly may be in session." The section, if so amended, would read:

"The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting."

The next amendment is in the twelfth section, to insert the word 'common,' before the word 'schools,' so that the section would read—

"The board of education shall provide for the education of all the youths of the state, through a system of *common* schools, &c."

The next amendment agreed upon is the one now pending, to strike out the words, in the thirteenth section, "for other services such compensation as shall be provided for by the general assembly;" so that the only compensation of members of this board shall be the same *per diem* and mileage as is provided for members of the general assembly.

The next amendment is in section fifteen, to strike out the words "sixty-five," and insert the words "sixty-three," as the time after which the legislature shall have power to abolish or re-organize this board; also to strike out the words "two-thirds of each branch concurring;" so that a majority vote of the general assembly can effect this object. I would also suggest to the gentleman from Des Moines, [Mr. Hall,] to strike out the word 'supersede,' and insert the word 'abolish,' in this section.

Mr. HALL. I believe these words mean the same thing. I do not care which word is used.

Mr. WILSON. It has been suggested to me that this change should be made. This fifteenth section will then read:

"At any time after the year 1863, the general assembly shall have power to abolish or re-organize said board of education, and provide for the educational interest of the state in any other

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manner that to them shall seem best and proper."

I believe these are all the amendments agreed upon between at least a portion of the opponents and friends of this article. I presume they will be satisfactoryto a majority of this convention.

The PRESIDENT. The first question before the convention is upon the pending amendment offered to the thirteenth section by the gentleman from Johnson, [Mr. Clarke.]

Mr. CLARKE, of Johnson. At the suggestion of the gentleman from Des Moines, [Mr. Hall,] I will consent to withdraw my amendment for the present.

I desire to say that, while I am perfectly willing that the friends of this article, and other gentlemen who have been spoken of by the gentleman from Jefferson, [Mr. Wilson,] should agree upon these amendments, and while they will at least obviate some of my objections to this article, I do nor wish to be understood as being a party to this agreement. While I shall not oppose these amendments, I shall reserve to myself the right of placing myself upon the record in opposition to this whole project. I am willing to withdraw my amendment and let the friends of this agreement propose it.

The PRESIDENT. The Chair would suggest as this is one of the amendments agreed upon, the question may as well be put upon it now.

Mr. CLARKE, of Johnson. Very well.

The question was then taken upon the amendment, and it was agreed to.

Mr. GRAY. While we are upon this section, I would suggest a verbal amendment which I would like to have made: that is, to strike out the words "and mileage," after the words "per diem," and insert after the word "session" the words "and mileage going to and returning therefrom," so that the section would read:

"The Board of Education shall each receive the same per diem, during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly."

Mr. MARVIN. This seems to be designed to prevent the legislature from assigning the members of this Board any duties in their respective districts, and paying them for performing them. My attention was called to this subject by a letter from an eminent scholar, who has been at the head of the Normal School in New York, but is now a citizen of this State. I received a letter from him some time since, and this is one of the provisions which he thought should be inserted in the first measure upon this subject. And it was on account of this that I offered the proposition I did, to allow the legislature to assign members of this Board other duties, and pay them for it. I consider that if they have no other duties except to sit here twenty days, they will have but little to do that will be profitable. I would have the legislature assign certain duties to them in their several departments, such as will infuse a spirit of interest into the districts in which they live.

If the legislature is not to have the power to assign these additional duties to the members of this Board, it occurs to me this whole scheme will lack the vitality that it ought to possess. I am surprised that the amendment which was adopted a few moments since, was ever consented to. The amendment now pending is to bind the legislature still farther, so that the people cannot send members to the General Assembly who shall have power to do anything in relation to the public schools, except to let the Board sit here twenty days in the year. This is the next step to breaking down this whole system. I can hardly think gentlemen are sincere in saying that they desire to promote the best system of schools, when they strike so fatal a blow to the system as this.

Mr. HALL. If I entertained the same view of this matter as the gentleman from Jones [Mr. Marvin] does, I should feel exactly as he does. But I do not think that this amendment prevents the legislature from assigning this employment to the members of this Board. The power is here, though not expressed, just as much as though it was expressed in so many words. I am sure I am not mistaken in that. I would not agree to insert a provision that the legislature should not have power to assign certain duties to the members of this Board. I cannot feel as the gentleman does; but I hope he will believe me sincere in this matter.

The question was then taken upon the amendment proposed by Mr. Gray, and it was agreed to.

No further amendment being offered to this section—

Passage of Laws by the Board.

Section fourteen was then read as follows:

"A majority of the board shall constitute a quorum for the transaction of business; provided, no rule, regulation, or law, for the regulation and government of common schools or educational system, shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the board shall be, 'Be it enacted by the board of education of the state of Iowa.'"

No amendment being offered to this section—

Re-organization of the Board.

Section fifteen was read as follows:

"At any time after the year 1865, the general assembly, two-thirds of each branch concurring, shall have power to supersede or re-organize said board of education, and provide for the educational interest of the state in any other manner that to them may seem best and proper."

Mr. WILSON. I move to amend this article by striking out the words "sixty-five," and inserting the word sixty-three;" also, to strike

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out the words, "two-thirds of each branch concurring;" and, also, to strike out the word "supersede," and insert the word "abolish." The section will then read as follows;

"At any time after the year 1863, the general assembly shall have power to abolish or re-organize said board of education, and provide for the educational interest of the state in any other manner that to them may seem best and proper."

Mr. CLARKE, of Johnson. I would make one suggestion here, and that is, that we shall have no general assembly in 1863, as we shall probably arrange so as to have the general assembly meet upon other years.

Mr. HALL. That is not determined yet.

Mr. CLARKE, of Johnson. I say that the general impression in the convention is, that we should try to make the sessions of the general assembly come on even years, to suit the terms of office of our United States Senators.

Mr. HALL. They must be on odd years for that.

The question was then taken upon the amendments to the fifteenth section, offered by Mr. Wilson, and they were agreed to.

The PRESIDENT announced that the article on education and schools had been gone through by sections, and was now open to farther amendment.

Sessions of the Board.

Mr. WILSON. I move to amend section four by striking out the word "board," where it occurs the second time, and inserting the words "general assembly", and also to strike out the words, "no regular session of the board shall be held during the time the general assembly may be in session." The section would then read:

"The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting."

Mr. PARVIN. The general assembly are to be allowed to fix the time and place of meeting. It seems to me the board should meet at the seat of government, wherever that may be. If they are allowed to meet wherever they see fit, they will be log-rolling around from one place to another. They should meet at the seat of government only, where they will have better accommodations.

Mr. HARRIS. I would suggest to the gentleman from Muscatine that this matter is now placed absolutely in the hands of the general assembly, and that is just what he said a while ago that he wanted.

The question being taken upon the amendments offered by Mr. Wilson, they were agreed to.

Common Schools.

Mr. WILSON. I move to amend section twelve by inserting the word "common" between the words "system" and "schools," so that the section will read:

"The board of education shall provide for the education of all the youths of the state, through a system of common schools. A school shall be organized and kept in each district at least three months in each year. Any district failing for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund."

The PRESIDENT. That amendment having been once offered to-day, and rejected, it cannot be made now, and have the journal read right, without the vote rejecting it to be reconsidered.

Mr. WILSON. Then I would request some gentleman, who voted against the amendment before, to move a re-consideration now.

Mr. GOWER. I voted against this amendment before. I now move to re-consider the vote by which it was rejected.

The motion being taken upon the re-consideration, it was agreed to.

The question recurred upon the amendment to insert the word "common" between the words "system of" and "school," and being taken, it was agreed to.

Contingent Expenses of the Board.

Mr. CLARKE, of Henry. Section ten, as it now stands, reads as follows:

"The board shall not have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly."

I know there is a pretty general feeling in this convention—perhaps among a majority of its members— to have the question settled somewhere in this article, as to whether these contingent expenses are to be a charge upon the school fund or not. If gentlemen are willing to have an amendment inserted here, that they shall not be a charge upon the school fund, that will satisfy many members here, who are now in doubt upon this point.

Mr. HALL. I am satisfied that the sections of the article upon the school fund and school lands, have so completely specified the uses to which this fund shall be put, that it cuts off entirely the possibility of its being used for any other purpose. I think this point is already fully guarded.

Mr. CLARKE, of Henry. I will ask the gentleman from Des Moines [Mr. Hall] if he is not aware that it would be a very fair construction, to say that these officers, we are now creating here, are just as much a part of the school system as school-masters are?

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Mr. HALL. Will this board be a common school?

Mr. CLARKE, of Henry. It will be part of the common school system; there can be no doubt about that.

Mr. HALL. Will it be a school? If not, then the school fund cannot be expended upon it.

Mr. CLARKE, of Henry. It will not be itself a school, but it is certainly a part of the common school system. I want to have this matter settled so that the legislature cannot say that these incidental expenses shall be paid out of the school fund.

Mr. HARRIS. I voted for the amendment proposed by the gentleman from Henry, [Mr. Clarke,] this afternoon, upon this subject, and I would be willing to vote for it again.

Mr. TRAER. It appears to me that section three of the article on school funds and school lands settles this question. That section reads:

"The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State."

I understand that this section confines the expediture of this fund strictly to the use of common schools. I think, as the gentleman from Des Moines [Mr. Hall,] says, that this board is not a common school, and therefore, cannot have any of this fund.

Mr. CLARKE, of Henry. The language used in this section is—"shall be inviolably appropriated to the support of common schools throughout the State." Gentlemen are acting upon the supposition that these officers we are creating here are to be a part of the common school system of the State, and the legislature may take that view of it. I know there are many members here who suppose that is a correct view of this subject, and that the expenses of this board can, under the tenth section as it now stands, be properly chargeable to the school fund. And it is to obviate any such understanding—gentlemen may call it a *mis*-understanding, if they please—that I moved the amendment I did, so as to have no ambiguity about this matter. Gentlemen may see that if we can debate this question here among ourselves, it may be debated in the legislature; and if they are hard up for funds, it may come very handy for them to turn the matter over to the school fund, rather than resort to direct taxation to pay these incidental expenses.

The PRESIDENT. The chair will say that this amendment having been voted down once to-day, it would not be in order to offer it again at this time.

Mr. SCOTT. I would inquire what was the exact form of the amendment proposed by the gentleman from Henry, [Mr. Clarke,] to this section?

Mr. CLARKE, of Henry. It was to strike out the word "contingent," and insert the word "all" before the word "the;" also to add to the section the words "but no part of the cost and expenses of the said board shall be a charge upon the school fund. That portion of the section would then read:

"All the expenses shall be provided for by the general assembly; but no part of the cost and expenses of said board shall be a charge upon the school fund."

Mr. SCOTT. I voted in the majority upon that amendment; and I now move a reconsideration of the vote by which it was rejected. My object is that we may put this matter of drawing from the school fund at rest. There is a difference of opinion in the minds of gentlemen here in regard to this matter. Some are of opinion that this section as it now stands is good enough, that the constitution is sufficiently guarded upon this point already. The gentleman from Des Moines, [Mr. Hall,] thinks that they cannot filch from this school fund at all, to pay the expenses of these officers. Other gentlemen here take a different view of this matter. I am not myself quite ready to form an opinion in regard to this matter. But if this clause is added to this section, this matter would be forever put at rest. If this matter be, as the gentleman from Des Moines says it is already, then the addition of this clause will change nothing, and the gentleman cannot object to it. If it should be super-abundant, there can be no good valid reason against it, save the fact of superabundance. And to conciliate all upon this subject, I think the gentleman should consent to it. It would at least render the matter more clear in my mind, and in the minds of some others.

Mr. HALL. If I thought there could be any reasonable doubt in regard to this matter, I would yield my objections to this amendment. But I do not like to have this repetition and reiteration in the constitution. I think it is all right as it is. This matter is fixed beyond controversy in the article upon the school fund and school lands; if it is not, then we can fix it there when we get to it.

The question was upon the motion to reconsider.

Upon this motion—

Mr. CLARKE, of Henry, called for the yeas and nays, and they were ordered accordingly.

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The question being then taken, by yeas and nays, the motion to reconsider was not agreed to; yeas 12, nays 18, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Ells, Gray, Harris, Parvin, Scott, Seely, Solomon and Young.

Nays—Messrs. Ayres, Clark of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Gower, Hall, Hollingsworth, Marvin, Patterson, Peters, Robinson, Skiff, Traer, Warren and Winchester.

Mr. HALL moved that the article be ordered to a third reading, and referred to the committee on revision, engrossment and enrollment.

Upon this question—

Mr. HALL called for the yeas and nays, and they were ordered accordingly.

The question was then taken, by yeas and nays, upon the motion to order the article to be read a third time, and it was agreed to; yeas 23, nays 7, as follows:

Yeas—The President, Messrs. Ayres, Clark of Alamakee, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Hollingsworth, Marvin, Patterson, Peters, Robinson, Scott, Seely, Skiff, Solomon, Warren and Winchester.

Nays.—Messrs. Bunker. Clarke of Henry, Clarke of Johnson, Gray, Parvin, Traer and Young.

School Funds and School Lands.

The PRESIDENT. The article on school funds and school lands having been read through once, will now be read by sections for amendment.

The first section was then read as follows:

Management of School Funds and Lands.

"The educational and school funds and lands shall be under the control and management of the General Assembly of this State."

No amendments being offered to this section—

University Fund.

Section two was then read as follows:

"The University lands, and the proceeds thereof, and all moneys belonging to said fund, shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

No amendments being offered to this section—

Common School Fund.

Section three was then read as follows:

"The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of shools, which shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State."

No amendments being offered to this section—

Section four was then read as follows:

"The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall from time to time provide."

No amendments being offered to this section—

University Lands.

Section five was then read as follows:

"The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University."

No amendments were offered to this section.

Agents of School Funds.

Section six was then read as follows:

"The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue, for other civil

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purposes, under such regulations as may be provided by law."

No amendment was offered to this section.

Distribution of Common School Funds.

Section seven was then read as follows:

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly."

The PRESIDENT announced that the article had been read through by sections, and was still open for amendment.

Tuition in Schools to be free.

Mr. ELLS. I have an amendment which I desire to offer to the third section. I move to amend that section by adding the following: "in which tuition shall be without charge," so that the section would read as follows;

"The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be granted by the United States to this state, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress, distributing the proceeds of the public lands among the several states of the Union, approved in the year of our Lord, one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this state, shall be and remain a prepetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state, in which tuition shall be without charge.,'

Mr. HALL. I hope that amendment will not prevail. I think if adopted it will lead to most mischievous results. It is a notorious fact that a school system which is entirely supported by the public funds is not successful; and the adoption of such a system here would in my opinion prove a most fatal blow to the educational interests of this state. There are a great many districts in this state as yet sparely settled. But most of the school districts desire to keep up school six, seven and nine months in a year, so that they can send their small children in the summer season, and their larger ones in the winter season. They want to divide the fund so as to make an equal distribution between the winter and summer seasons. If you force them to apply all their funds in one season, either in the winter or the summer, you will be inflicting an irreparable injury upon the interests of common school education.

I hope the convention will not adopt the amendment offered by the gentleman from Scott, [Mr. Ells,] but leave this matter to be determined in the future, as the public exigencies may require.

Mr. ELLS. My object in offering the amendment was to have common schools in which poor children should be always sure to have their tuition free of charge. I wish to make provision so that this class cannot be deprived of the benefit of schools on account of not being able to pay tuition.

Mr. HALL. I wish to say to the gentleman that the legislature always provides for indigent children whose parents are unable to provide for them.

Mr. GILLASPY. I shall regret to see the proposition of the gentleman from Scott [Mr. Ells] adopted. Having served as one of the directors in a school district, I have had some little experience in this matter. When we have our school meetings, the first question that is presented is, whether a school shall be taught; and when they have voted in favor of keeping up a school, then the question is in regard to money to sustain it. If there be not public money enough to keep up the school for three or six months, as the case may be, then they decide to take what public money there is, and tax the citizens of the district for the balance. I find that this system works well, and everybody appears to favor it. Those parents who are too poor to send their children to school always have this privilege given them; for every community will permit the children of indigent persons to receive the privileges of the school without charge.

Mr. MARVIN. Perhaps a majority of the convention feel as the gentleman from Scott, [Mr. Ells] does upon this question. I am convinced that the gentleman from Scott has not had so large a family to educate in common schools as I have; and I am convinced also that he has not acted as an officer in a school district as long as I have, or he would not have moved the amendment he has submitted.

We cannot expect that our schools for three or five months will be supported entirely by the public funds. Perhaps it is not desirable that they should be. As the gentleman from Wapello [Mr. Gillaspy] says, the question comes up in every school district, how long a time shall there be a school, and what proportion of funds shall be applied to the summer, and what proportion to the winter school? I have always lived very near school-houses, so that this question in relation to providing for summer and winter schools has not made much difference with me. But in all the various school districts where I have lived, whether in this state or in Ohio, the question has come up shall we use a portion of the school funds for the benefit of those who live at a distance from the

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school-house, and who are unable to send their children to school during the inclement seasons of the year? And wherever I have lived, the people have been always willing to divide the fund between the two schools.

We should not, in my opinion, be bound by a constitutional provision to make our common schools free to all, but should let the several districts regulate this matter for themselves. If we do that, I will warrant you that poor children will never be turned out of our common schools. In all my experience, I have never known a child of poor parents turned out of school because his parents were poor. The directors of school districts, in making out their bills, always take this matter into consideration; and if there are families that are not able to pay for the schooling of their children, they are not called upon to pay when the bills are made out and presented.

Mr. SKIFF. The amendment proposed here, as suggested by the gentleman upon my left, [Mr. Marvin], will, in my opinion, work a serious injury to the school system of the State. An experiment similar to this was tried in New York. A law was passed there making schools free, for which purpose it was provided that taxes should be raised, in order to make up the deficiency that might arise after the appropriation of the school fund was used up. The experiment was tried there a few years, but it was strongly resisted, and it was found that it did not work very well, and they abandoned the system. The rule, I believe, generally holds good, that we do not value that which costs us little or nothing. Now, if in any district in New York, they do not have sufficient funds to pay the teachers, they raise the necessary amount by direct taxation *per capita*, with this exception—that the children of parents who are unable to pay their tuition, are admitted free. I know that when I used to teach school in that State, the school trustees would always get together to make up their deficiency, and certain persons would not be charged anything for their tuition, on account of their indigent circumstances, while the remainder of the district would be taxed in proportion to the scholars they sent to school.

If we should incorporate the provision of the gentleman from Scott [Mr. Ells] into our constitution, it would become established as organic law, which could not be repealed. I am confident that its adoption here would work irreparable injury to the school system of this State. I have seen the system tried which he proposes; I have lived under it, and I have seen it abandoned, in a State, too, where the cause of education is as firmly seated in the affections of the people as in any portion of the country. I have no doubt the gentleman from Scott [Mr. Ells] is animated by the best of motives in offering the proposition he has submitted here; but I believe, if it is adopted, it will retard the advancement of the educational interests of this State.

Mr. WILSON. I believe the identical question, raised by the amendment proposed by the gentleman from Scott, [Mr. Ells], was decided at one time by the court, in Ohio. The law there provided that the school directors might levy contributions upon the scholars, in order to raise the amount necessary to carry on a school for such time as the districts might determine. The question came up in this way: A scholar had been sent to a school, but the parents refused to pay the contribution levied, and the child was then turned out of school. An action was commenced, in order to bring up the question, whether the trustees had the right to eject a child from school, so long as there was public money in the treasury for the purpose of carrying on the school. And the court held that, so long as the public money lasted, every child in a district was entitled to go to school, and that they could not expel him for refusing to pay this contribution.

It seems to me that this amendment will not change the rule at all, even though it should be placed in the constitution. It simply provides that the schools shall be free to all. Free how? for how long? Free so long as the public money shall last. After that time the school takes another shape, and it is then supported by contribution. Under the present arrangement, according to the decision made in Ohio, every child would be entitled to attend school until the public money was exhausted; and even though the directors of the district had levied contributions upon parties who should turn around and refuse to pay the contribution, still they would be entitled to send their children to school as long as the public money lasted. That principle, as I before remarked, was decided in the case to which I have referred, and precisely the same principle is contained in our laws.

Mr. HALL. Why does not the gentleman go a step further, and say that they also decided that a person who sent a scholar was liable to pay. They cannot turn a scholar out, but they do not release the parent from the liability of this additional tax put upon him.

Mr. WILSON. I will state that the decision was that they could not turn the child out of school, even though the parent refused to pay, until the public money was exhausted; then, if the parent refused to pay this contribution, they could send the child out of school.

Mr. HALL. They also said that this additional tax or levy could be collected, and if the parents failed to pay it, they could then turn the scholar out. I wish to have our system so arranged that they should not turn scholars out.

Mr. MARVIN. I recollect very well the law to which the gentleman from Jefferson, [Mr. Wilson,] alludes. I felt the effects of it to a certain extent. We made, in the district in which I resided, a division of the money, as usual, for two different schools, one for the winter and one for the summer season. One man in the district claimed that we had no right whatever to make such a division; that we must

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keep up the school until the fund was expended, and on that account refused to pay his school bill, although abundantly able to do so; and he has to this day refused to pay this bill to the poor girl who taught the school. The law was, however, soon changed. If we mean that poor children should be benefited by schools, let us leave this matter in such a condition that the funds can be divided for both winter and summer schools, and, by all means, keep this amendment out of the constitution, which we are here framing.

Mr. CLARKE, of Henry. There is certainly a misapprehension, on the part of some gentlemen, with regard to this amendment.

It seems to me that they dare not reject it; that they must accept it. What are they doing here? They are talking about this school fund, as though it were coming out of their own pockets. It is a gift to us, and we are merely trustees of it. It has been given to the youth of the state for educational purposes, and we are merely acting here in the capacity of trustees. Every child in the state, poor or not, has a claim upon this fund, and that is all the gentleman from Scott [Mr. Ells] means by his proposition. While we are framing this constitution, and saying, in respect to this particular subject of education, what schools we shall have, he merely says that all schools in the state shall be free.

So far as these funds are concerned, we are not going beyond that. We are saying nothing about the funds which may be raised by direct taxation. We are talking about the funds which belong to all the children of the state, the children of the rich and poor, black and white, alike.

All the children in our state are entitled to the benefits of this fund, and all we ask here is, that our common schools shall be free and open to all. I defy gentlemen to incorporate into the connstitution any provision that would, in positive terms, say that these schools shall not be free and open to all. Why are they afraid to assert the principle here asked for? Why are they afraid to give a name that shall properly characterize these schools, as it has characterized them in other states? It is intended to establish a universal fund, by which schools shall be kept free and open to all. This is the very idea of common schools; they would not be common schools, unless the idea of their being free and open to all was incorporated into the system. Have gentlemen forgotten, that when this question came up in another shape, they voted in favor of this same principle, and that it was once carried in this convention? Has anything occurred to change their opinion since? Nothing but the fact, that this report has gone through the manipulations of the committee again, and has come here altered and changed in some particulars, and among other changes, this idea of a system of free schools has been stricken out, which the gentleman from Scott [Mr. Ells] now proposes to re-instate. It once received a majority vote of this convention.

Mr. HALL. Never.

Mr. CLARKE, of Henry. Then I am very much mistaken.

Mr. ELLS. My recollection is, that we voted in favor of free schools.

Mr. CLARKE, of Henry. I am very certain that the proposition was carried.

Mr. TRAER. I would like to ask the gentleman from Henry what he means by a free school?

Mr. CLARKE, of Henry. Just exactly this: We have a fund founded by the United States government for the benefit of the children of Iowa; we are acting as trustees of this fund, and all the children of the state, who enter our common schools, should have the advantage of this fund, so far as it goes.

Mr. TRAER. We have provided in this same article, that there shall be a school taught at least three months in every district each year. I wish to ask the gentleman from Henry this question: If there is not money enough belonging to that district to pay for a three months' school, how are you going to have a school upon this free school system?

Mr. CLARKE, of Henry. It is a very simple matter to manage. You must suppose, if there is a district, and if there are people in it, that there is property also in it. If they wish a school, they can get together, and can either contribute themselves, or the legislature can establish a system by which they shall be taxed in addition to this school fund; and the poor children of that district can then come in and have the benefit of the school, so far as their portion of the public money is concerned. That is as far as we ask to go. We say that so far as this fund is concerned, every child in that district shall have permission to attend school. When that fund is expended, the district have a right to continue their school for nine months more if they see fit, on their own terms.

Mr. TRAER. The gentleman from Henry seems to think that we must understand this matter as he does. Do I understand the gentleman to say, that a free school is a school which is paid for by the public money?

Mr. CLARKE, of Henry. I say that we are making provision here for free schools, so far as this fund is concerned.

Mr. TRAER. Will the gentleman from Henry answer my question?

Mr. CLARKE, of Henry. I can give the gentleman facts and argument, but I cannot bestow understanding upon him. I say that we are merely providing in the constitution for the application of this fund. What is it? It is a fund intended for the benefit of all the children in the State. We do not say that there shall be a system of taxation, to have schools taught so many months in a year; but we merely say that this fund shall go to the support of common

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schools; and all we ask is, that these common schools, which this fund supports, shall be free schools. If they want other schools, let them provide for them by contribution, or in some other way. We have no right to divert this fund from its true object, for it is not money for the people to dispose of as they may see fit. It is a sacred school fund, provided by another power, and given to this State as trustee, for the benefit of the children of the State. The children of this State have the right to its exclusive use. If this school fund supports a school in a district for three months in a year, every poor child there has a right to attend for that length of time.

Mr. PARVIN. I did not intend to say a word upon this question; but to give a silent vote upon the amendment. The course, however, which the friends of the amendment have taken, induce me to make a few remarks upon it. I am anxious to see the day when every child in the State shall be educated entirely free of charge; and I am willing that the little property I possess shall be taxed for that purpose, for the benefit of the children of others as well as for the benefit of my own. That time has, however, not yet arrived. We have not yet a fund sufficient to educate all the children of the State, entirely free of charge; and I am well satisfied, for I have paid some attention to the system of common schools, that the best interests of the rising generation of this State do not demand the adoption of a system of this kind.

We want the schools so kept that they will accommodate all the children of the State, and so that no child shall be deprived of the privileges which they afford. Suppose there is a fund sufficient to pay for a school for three months. If this amendment be adopted, that money must be paid in these three months, and no public money can be appropriated during the balance of the year. Suppose that they want, in that school district, to keep up a school for six months, and there is a fund sufficient to pay for a school but half of that time, they decide that the money must be paid for a three months' school to be kept during the summer season. The poor man who is living there cannot lose the labor of his children during that period of the year, and, therefore, derives no benefit from that fund. Again, if the directors say that the money must be appropriated for a three months' school during the winter season, this poor man can send his children then, but another poor man, a neighbor of his, cannot send his, and thus he will be cut off from the privilege of receiving any benefit from the public funds.

The interests of education would be much better promoted, if the directors could be permitted to say, that half of the money shall be appropriated for a three months' school in the summer, and the other half for a three months' school in the winter. No child will be deprived of the benefit of the school, because his father is poor. The child may be sent to the school and educated, and no one will turn him out. The directors may, if they can, collect the tuition from the parent or guardian; but if they cannot, the child can still be sent to school, and he will be in no danger of being turned out. This has been done time and time again. Widows, who have large families to support, receive the benefit of schools for their children, without any charge being made by the trustees.

If you adopt the amendment of the gentleman from Scott, [Mr. Ells,] you will deprive a great many children in the State of the benefits of this fund. I do think that the gentlemen, who have urged the adoption of this amendment so strongly, have not examined it to see what its practical operation will be. They are honest in this matter, and mean just what they say, and they think it essential to the perfection of this system that these schools should be made entirely free. I say so, too, whenever we have funds sufficient to have a school in every district, where there are children enough to make up a school. I wish to see a system of free schools for this State, but the time for such a system has not yet arrived; we have not now a fund sufficient for that purpose. Now the directors may provide for a school during three, six, or nine months of the year, as they think proper, and more good will result from this system than by adopting the amendment proposed by the gentleman from Scott, [Mr. Ells.]

Mr. TRAER. I do not wish to take up the time of the convention with any extended remarks. I wish to make a single remark for the benefit of my friend from Henry, [Mr. Clarke,] in answer to the insinuation which he has thrown out here with regard to myself. He says, in answer to a question which I asked him, that he could give me reasons and arguments, but he could not give me understanding. I wish to say to the gentleman, that I suppose it is an established principle of law that a person cannot give a good title to that which he does not possess himself. (Laughter.)

Mr. CLARKE, of Henry. That remark is not original; it was made in this capitol some two years ago. (Laughter.)

Mr. TRAER. I might say, also, that the gentleman, in the first place, borrowed the allusion he made to me, and I of course used a borrowed remark in answer to him. (Laughter.)

The PRESIDENT. It seems to be borrowed capital all around. (Renewed laughter.)

Mr. ELLS. My object in offering this amendment, was to secure the education of all the poor children in the State.

I wish to have the same system prevail here that prevails in Connecticut and Massachusetts. In those States, if a school is kept in a district school house, every child has a right to attend it. If a parent is not able to pay for the tuition of his children, it is no reason why the children should be kept out of school.

I would like to see the amendment I have offered adopted, because, by so doing, it will

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compel us to use the public money to keep schools free so long as the money lasted.

The question was then taken, by yeas and nays, upon the amendment offered by Mr. Ells, and it was not agreed to; yeas 8, nays 25, as follows:

Yeas—The President, Messrs. Clark of Alamakee, Clarke of Henry, Ells, Gray, Hollingsworth, Seely and Wilson.

Nays—Messrs. Ayres, Bunker, Clarke of Johnson, Day, Edwards, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Robinson, Scott, Skiff, Solomon, Traer, Warren, Winchester and Young.

Mr. CLARKE, of Johnson. If there is to be no further action upon this article, I would move an adjournment.

Mr. SOLOMON. I wish to offer amendments to the fifth, sixth and seventh sections, so that the convention may act upon it to-morrow.

Mr. CLARKE, of Johnson. I will not press my motion for an adjournment, then.

Borrowing of School Fund by the State.

Mr. SOLOMON. I propose to strike out of section five the last clause, which reads:

"And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university."

Also, the words, "and county," near the middle of the sixth section, so that the section would read—

"The financial agents of the school funds shall be the same, that by law receive and control the State revenue, for other civil purposes, under such regulations as may be provided by law.

I propose also to strike out the whole of the seventh section, which reads—

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly."

And insert in lieu thereof, the following:

"Sec. 7. For the purpose of erecting charitable institutions, and other public buildings of this State, the General Assembly may provide by law for borrowing from the school and university funds for a series of years, such sum or sums as they may deem necessary for such purposes, for which they shall annually pay to the school fund interest at the rate of —— per cent. per annum."

On motion of Mr. CLARKE, of Johnson,

The Convention then adjourned until to-morrow at 9 o'clock, A. M.

WEDNESDAY, March 4, 1857.

The Convention met at nine o'clock, A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of yesterday was read and approved.

Distributing the Debates.

Mr. TODHUNTER, from the special committee relative to the publication of the debates and their distribution, made the following report:

"*Resolved*, That W. Blair Lord be employed to index and superintend the publication of the debates of this convention, and that he be allowed the sum of two hundred dollars for said services.

"*Resolved*, That the fifteen hundred copies already ordered, if the same shall exceed twelve hundred pages, they shall be bound in two separate volumes.

"And, when the debates shall have been published, they shall be distributed as follows:

Eighty copies to the State Historical Society;

Two copies to each state and organized territory;

Two copies to each county in the state, one of which shall be kept in the county offices;

Twenty copies to each member of the convention;

Five copies to each of the secretaries, reporters, sergeant-at-arms and chaplain of this convention;

One copy to each state officer, and supreme and district judge;

One copy to each messenger and other officer of the convention not otherwise provided for.

The remainder of the one thousand five hundred copies shall be placed in the possession of the state, and be disposed of as may be designated by law.

"*Resolved*, That S. C. Trowbridge be employed to distribute the debates of this convention, as provided for in the foregoing resolutions, and that he be paid for such distribution the sum of five hundred dollars; and to be distributed as soon as ready.

S. G. WINCHESTER,
LEWIS TODHUNTER,
J. C. HALL.

On motion of Mr. HALL,

The report was adopted.

Printing and Distributing the Journal.

Mr. CLARKE, of Johnson, made the following report:

"The special committee, to which was referred certain resolutions relative to printing and dis-

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tributing the journal of this convention, have had the subject under consideration, and beg leave to report the following resolutions for the action of the convention.

"*Resolved*, That John Mahin be and he is hereby employed to print one thousand copies of the journal of this convention, with the constitution attached, and ten thousand copies of the constitution separately; and that he be paid, as a compensation therefor, the prices now paid by law to the state printer for similar kind of work; *Provided*, that, in printing the said work, the state shall only be charged for single composition.

"*Resolved*, That John Bittman, of Dubuque county, be employed to translate the constitution into the German language, and print —— copies of the same; and that, for translating the same, he be paid the sum of fifty dollars; and, for printing, the prices now paid by law to the state printer for the same kind of work.

"*Resolved*, That each member of this convention be entitled to twenty-five copies of the journal of this convention for distribution; and that the remainder of said journals be placed in the state department far the use of the state.

"*Resolved*, That the ten thousand copies of the constitution (the printing of which is provided for in the foregoing resolution,) be divided among the counties according to population, and that the same be sent to the county judge of each county for distribution among the people.

"*Resolved*, That the German constitution be divided among the counties as follows: ——

"*Resolved*, That T. J. Saunders, the secretary of this Convention, be employed to index and superintend the printing of, and distribute the journals and constitutions herein provided for; and that he be allowed the sum of three hundred and fifty dollars as a compensation in full for said services.

W. Penn. Clarke,
Chairman.

Mr. WILSON. I wish to inquire whether there is not a written contract between Messrs. A. P. Luse & Co., and the convention in regard to printing the constitution. I understand that the bond of these printers covers the printing of the constitution as well as the debates.

Mr. CLARKE, of Johnson. I will state, in answer to the gentleman, that I understand the contract between the convention and Messrs. A. P. Luse & Co., is confined solely to the printing of the debates, and refers to nothing else. This report makes provision for printing the journal and the constitution, and for distributing them among the people.

Mr. HALL. I have a minority report upon this same matter which I wish to present.

The report was then read as follows:

"The undersigned, minority of the committee upon printing and distributing the journal and constitution, begs leave to report:

"That there are a large number of foreigners, immigrants from Holland, within this state, many of whom are naturalized citizens of the United states. These people are industrious and worthy citizens, generally well educated in their mother language, but, in a matter so important as a constitution, very many of them will not be able to fully comprehend the true meaning, if required to study it in the English language. As a matter of justice to them, and to give them an opportunity to fully understand this important suoject, the undersigned recommends that Henry B. Scholte, of Pella, Marion county, be employed to translate and print one thousand copies of the constitution in the Holland language, and that he be required to distribute the same to the Hollanders in this state, and that he receive the usual compensation for his services and postage.

J. C. Hall."

The PRESIDENT. The Chair would inquire of the gentleman from Johnson, [Mr. Clarke] if there are any blanks to be filled in the report submitted by him?

Mr. CLARKE, of Johnson. The committee has designated the number of copies they thought it desirable to print in English, but they have left a blank for the number to be printed in the German language; and also a blank as to the manner of distribution. The committee found, upon consultation, that to distribute copies of the constitutisn in German, according to the population of the counties, would not be the best and safest mode of distribution, for the reason, that while there are many counties which have a heavy German population, there are other counties which have scarcely any. We therefore left those blanks, in our report, leaving it to the convention, upon consultation and deliberation, to specify what number of the constitution shall be printed in the German, and in what manner they shall be distributed.

Printing the Journal in English.

The first of the series of resolutions presented by the committee, was then read as follows:

"*Resolved*, That John Mahin be and he is hereby employed to print one thousand copies of the journal of this convention with the constitution attached, and ten thousand copies of the constitution separately, and that he be paid, as a compensation therefor, the prices now paid by law to the state printer, for similar kind of work; *Provided*, that in printing the said work, the state shall only be charged for single composition."

Mr. CLARKE, of Johnson. I wish to say, in explanation of this resolution, that the convention of 1846 printed eight thousand copies of the constitution, when the population of the state was not one tenth of what it is now. We thought that ten thousand copies would not be too large a number for a population of six hundred thousand.

Mr. CLARK, of Alamakee. I am opposed to the printing of the journal of the convention, as

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I do not see any necessity for incurring the expense which it will necessarily involve. Having made provisions for reporting and publishing the proceedings of the convention at length, I do not see the necessity for the printing of the journal.

Mr. WILSON. I feel upon this subject very much like the gentleman from Alamakee [Mr. Clark]. I think that the volumes of the debates of the convention will contain all that we require. It will certainly contain all the reports, resolutions, motions, votes, and all the speeches, and I cannot see what else we want. The publication of this journal will subject us to considerable expense, and one which, in my opinion, will be altogether unnecessary. I therefore shall vote against the printing of the journal. We have provided for an enrolled copy, to be deposited with the Secretary of State, and that, I think, will be sufficient.

Mr. HARRIS. If my recollection be correct, in regard to this matter, I think the gentleman from Jefferson [Mr. Wilson] is a little mistaken. It is true that the resolutions are given in the debates, but I think the yeas and nays are not given.

Mr. WILSON. Certainly they are.

Mr. EDWARDS. I move to strike out that portion of the resolution which provides for the printing of the journal.

Mr. PARVIN. I do not desire to put the convention to any unnecessary expense. If they desire to dispense with the printing of the journal entirely, I have nothing to say; but such a thing is unprecedented in the history of conventions of this character.

I know of no deliberative body that has ever refused to print the journal of the Secretary. It is true, we have a reporter's journal. It was the intention, originally, to print three thousand copies of that, and, as I understand from the friends of the proposition, it was also the intention to print fifteen hundred copies of the Secretary's journal. But it was thought too expensive, and the number of copies of the reporter's journal, to be printed, was stricken down one-half.

If the convention think that fifteen hundred copies of the bound volumes of the reporter's journal will give that information to their constituents, which they demand, I have not a word to say. I am not prepared to say what the expense will be of printing the journal of the Secretary. The Secretary informed me a while ago, that his journal will make probably about a hundred and fifty pages. The printing of the journal will be a cheap way to get information of our action before the people. We now have ordered fifteen hundred copies of the reporter's journal for distribution. If we print, in addition to that, a thousand copies of the Secretary's journal, not bound, but put up in the usual style of legislative documents, we will increase very materially the knowledge of our constituents, in regard to the positions which we have taken here, and the votes we have given upon the various questions as they came up here. The journal will contain, in addition to the usual and ordinary proceedings of the convention, the amended constitution. It was generally supposed that one thousand copies of the journal would not furnish a sufficient number of the amended constitution, and hence we have provided for printing it separately. I think the information in the journal is of that kind which we desire to spread before the people, and which they can get in no other way. It would certainly be unprecedented, as I before remarked, in the history of the country, to refuse to print the journal of the secretary.

Mr. CLARKE, of Johnson. If the convention, at the outset of our proceedings, had adopted the original report of the committee upon printing the debates, and had ordered three thousand copies of the debates, I should now occupy the position of the gentleman from Jefferson, [Mr. Wilson,] and the gentleman from Alamakee, [Mr. Clark.] But since we have cut down the number of debates to one thousand five hundred copies, I ask, would that number of the journal be sufficient to be divided among six hundred thousand people? It seems to me not. The committee cut down the number of journals to the lowest possible amount that they considered advisable, and we have now only one thousand five hundred copies of debates provided for, and that with a thousand copies of journals, will make but two thousand five hundred copies of both to distribute to over half a million of people. It seems to me, that unless we wish to conceal from the people a knowledge of our votes, and our position upon the various questions that have been presented here, this amendment ought not to prevail. I am as anxious to save expense as any other man here; but I think we ought to make provision for placing the records of the convention in such a shape that the people may ascertain how their representatives have voted upon the various questions that have been presented here, many of which were not anticipated to come up when they were elected. It seems to me that the matter of expense, which will be incurred by the printing of this journal, will be a very small item when compared with the necessity of giving the people this information. I hope, therefore, that the motion of the gentleman from Lucas, [Mr. Edwards,] will not prevail.

Mr. CLARK, of Alamakee. Gentleman have failed to satisfy me that there is any necessity for printing the journal. In the first place, if we have not provided for printing a sufficient number of the debates, let us increase that number. It can be done cheaper and with less expense than we can print the journal. If a member, with twenty copies of the reports of this convention going into his district, cannot satisfy his constituents as to his positions here, upon the various questions that come up for the action of the convention, he must have a very unreasonable constituency, in my opinion, and one that

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will hardly be satisfied with any thing. I see no necessity for printing this journal, and I shall vote against it.

Mr. CLARKE, of Henry. I am in favor of printing the journal of this convention. I am confident the people of the State will be anxious to know what we have done here. Some will be anxious to know what has been said, but the greater number will be more anxious to know what we have done. The journal is a journal of our acts. The reports may contain our acts, but they also contain our talk. The journal separates our acts from our talk, and the people can look and see how each man has voted, no matter how he has talked. Every constituency will be anxious to know how their representative has voted, and I am willing they should know. I am in favor of publishing our journal, as other conventions have done upon like occasions.

As has been already remarked here, it is unprecedented in the history of deliberative bodies to suppress a journal. Why do we have a secretary here? Why incur all this expense, and put him to the trouble of reading over every morning the proceedings of the former day? It is to preserve an accurate record of our proceedings, to which the people may refer, in order to see what has been done, and how members have voted, and see if they act consistently with their professions.

Gentlemen are anxious to suppress the journal upon the ground of economy, and yet at the same time they are voting to pay a man five hundred dollars to distribute the debates through the State. Gentlemen are ready enough to incur other expenses, but when they come to this last item, and after all the expense and trouble of preparing this manuscript has been had, then all at once they have qualms of conscience in regard to the expense that will be incurred, and they have these economical turns which seem to throw them into such contortions. Let us act like men, and provide for the printing of this journal. I consider it a necessary expense, and one which the people will endorse. If we do not incur it, they will think we desire to suppress a knowledge of our acts. Very few of them will be able to know of our votes from the reports, for these are principally made up of our speeches. The journals will be comparatively cheap, and not cost more than one-fourth of what the report of debates will, and they will therefore be more universally distributed among the people. I hold that the people are entitled to the publication of the journal, and I hope that the gentleman from Lucas, [Mr. Edwards,] will not insist upon his motion.

Mr. WILSON. I wish to suggest one thing, in connection with the remark made by the gentleman from Muscatine, [Mr. Parvin], as to the probable size of this journal. He says that he has been informed it will comprise about one hundred and fifty pages. I think that at the time the Secretary gave the gentleman that information, he did not fully comprehend the extent to which the journal would run. I think that from present appearances, the journal will make at least five hundred pages.

Mr. PARVIN. I would like to have the Secretary state his opinion of the number of pages it will make.

The SECRETARY. I think the journal will certainly exceed one hundred and fifty pages. It will make a larger volume than I at first anticipated.

The question was then taken, by yeas and nays, upon the motion to strike out so much of the first resolution as provides for the printing of the journal, and the motion was agreed to; yeas 18, nays 17, as follows:

Yeas—Messrs. Clark of Alamakee, Day, Edwards, Gillaspy, Gray, Hall, Hollingsworth, Johnston, Palmer, Patterson, Peters, Price, Robinson, Skiff, Solomon, Traer, Warren and Wilson.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clarke of Johnson, Ells, Emerson, Gibson, Gower, Harris, Marvin, Parvin, Scott, Seely, Todhunter, Winchester and Young.

Mr. SKIFF. I move to strike out the latter part of the first resolution.

Mr. CLARKE, of Johnson. I wish to move to reconsider the vote taken upon the report of the special committee upon the printing of th debates. If I am to have but twenty copies of these debates to distribute among nineteen thousand five hundred people, that they may know what I have done here—how I have voted and what I have said—and if we are to have no journals, I desire to reconsider the vote adopting the report of the special committee upon the distribution of debates.

The PRESIDENT. The motion of the gentleman from Johnson [Mr. Clarke] would not now be in order, as there is a question already pending—the motion made by the gentleman from Jasper, [Mr. Skiff,]—which is, to strike out the proviso in the first resolution, and which reads as follows:

"*Provided*, that in printing the said work, the State shall only be charged for single composition."

Mr. WILSON. I would suggest, whether by striking out that portion of the resolution, we do not abolish the amount of compensation to be paid for printing, and leave that matter open. I think that we had better establish what this compensation shall be.

The question was taken upon the amendment offered by Mr. Skiff, and it was not agreed to.

Printing the Constitution in German.

The second resolution was then read as follows:

"*Resolved*, That John Bittman, of Dubuque county, be employed to translate the constitution into the German language, and print ——

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copies of the same; and that for translating the same, he be paid the sum of fifty dollars, and for printing, the prices now paid by law to the State Printer, for the same kind of work."

Mr. SCOTT. I move to fill the blank with "five thousand."

Mr. GOWER. It strikes me, that we do not have this proportion of Germans to Americans. I should think that one or two thousand copies printed in German would be a fair proportion to ten thousand printed in English.

Mr. SCOTT. I would accept the suggestion of the gentleman from Cedar, [Mr. Gower,] unless some members desire more. Two members have said they wanted five hundred copies each of the constitution in German; and I want myself at least that number, so that three of us want nearly the number which the gentleman has suggested. I think that ten thousand in English is too small a number. The printing of the constitution in German seems to be the only way by which we can give a large portion of our population any information of what we have been doing here. The expense of printing the constitution in German would be but a mere trifle. I believe it is a penny-wise and pound-foolish policy, this talking and arguing about saving expenses here. We have argued this question at ten times the cost of the printing. After the type is set up, the expense would be very little of striking off two or three thousand copies more.

Mr. GOWER. I would suggest that we say three thousand copies, as the gentleman seems anxious to provide a number sufficient to supply our German population. They have other means for ascertaining information of what we have done here, as they have papers printed in their own language, at Dubuque and Davenport.

I regret that we have refused to print the journal of our proceedings. I hold in my hands the journal of the constitutional convention of New York of 1821, and I have had the journals of other constitutional conventions, that have been held in other States, so that it appears to be an unprecedented course in the history of deliberative bodies, to refuse the printing of their journals. I believe our journal ought to be printed, so that the people may be fully advised of the action we have taken upon the various propositions that have been presented here.

The question was then taken upon the motion of Mr. Scott to fill the blank with five thousand, and it was not agreed to.

The question was then taken upon filling the blank with "three thousand," and it was agreed to.

Printing the Journal.

Mr. SKIFF. I move to re-consider the vote by which the convention agreed to strike out that portion of the first resolution which provides for the printing of the journal.

The question was taken, and the motion was agreed to, upon a division; ayes 16, noes 14.

The PRESIDENT. The question now recurs on the motion made by the gentleman from Lucas [Mr. Edwards,] to strike out that portion of the resolution, which provides for the printing of the journal.

Mr. HALL. I hope the motion will prevail. We have provided for printing fifteen hundred copies of the debates and proceedings of the convention. That work is now in publication, and contains, in addition to the speeches made here, every syllable that is in the journal. The journal is a mere naked skeleton of what we publish in the other work. Now I say that we would not act like men of common sense, in going to the expense of publishing another work, which shall be but a mere meagre outline of the work which we are publishing. It would be a mere act of folly. Why do it? If gentlemen want more copies of our proceedings circulated among the people, why not increase the number of copies of the "Debates" which we have ordered to be printed? It will not cost as much now to print another thousand copies of the "Debates" as it will to print a thousand copies of the journal, of matter which is entirely new, and have it published at a separate office, even if the type has to be re-set, and we have to re-publish that portion of the "Debates" already published. I would be unwilling to take the meagre and naked journal, and circulate it in my county, while the "Debates" were in circulation. If the volumes of "Debates" consisted alone of the speeches, and did not contain the votes, I would not object to the publication of the journal; but our reporter tells me that every word in the journal goes into the volume of "Debates." Why then publish this second, inferior, and I might almost say, worthless edition of our proceedings? Why publish two editions of our proceedings? I think it would be wrong, and that no particular benefit can result from it. I will vote, with other gentlemen here, to increase the number of copies of "Debates," but not to publish the journal separately.

Mr. EDWARDS. In addition to what the gentleman from Des Moines [Mr. Hall] has stated, that the volumes of "Debates," which we have ordered to be printed, will contain, besides the speeches, all the journal matter of the convention, I would say that it also contains all the proceedings in committee of the whole, all the motions, propositions, and votes taken there, which the journal does not give. I think, in view of this fact, that the printing and distribution of the journal would be a useless expenditure of the people's money. It is a gratuitous insinuation, and altogether uncalled for, for gentlemen to get up here and intimate that those of us, who object to printing the journal on account of the expense involved, do so, because we do not care about the people seeing how we voted, when the fact is, that every motion and vote is fully recorded in the "Debates." If it were necessary to print the journal, in order that the people might see how we have voted

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here, I would willingly go for printing it; but this is rendered unnecessary, from the fact that the "Debates" give a complete history of all our proceedings.

If it be necessary to increase the number of copies of the "Debates," and if it can be done, I am willing to vote for the proposition. But the printing of this journal, I do say, amounts to nothing but robbing the people; and you would find that the copies of this document would be mere waste paper, and considered as so much rubbish. That has been my experience, in regard to the journals of other deliberative bodies. You will find files of the senate journal of last session lying all around the capitol now, thrown away as mere rubbish. But with the "Debates" it will be far different. People all through the State will eagerly seek to procure them, as they will contain, not only all the journal matter, but all the discussions that have taken place upon the different propositions presented here.

Mr. PARVIN. It appears to me that the remarks of the gentleman from Des Moines, [Mr. Hall,] and of the gentleman from Lucas, [Mr. Edwards,] are certainly not very complimentary to our Secretary. I know that he needs no defence at my hands. But to say that the journal amounts to nothing but rubbish, is certainly not very complimentary to an officer, who has discharged his duty so faithfully and honorably, and so much to the satisfaction of the convention.

Gentlemen undertake to convey the impression that the journal of a deliberative body amounts to nothing. Why, sir, it conveys all the information that the people do get of the conduct of their representatives here in the General Assembly, how they have voted, and how they have acted, upon the various questions as they came up for consideration.

There is an effort to get clear of the printing of the journal, upon the ground of economy, and increase the number of the bound volumes of "Debates," which the gentleman from Alamakee [Mr. Clark,] says can be furnished at less expense than can the same number of the journal. When you undertake to tell me that you can print and bind two volumes, of six hundred pages each, of the "Debates," for less money than you can print the Secretary's journal, which is not to be bound at all, then I am just like the Yankee, and I answer, "I guess it can't be done." The printing of the "Debates" has already commenced; and when you undertake to increase the number you have already ordered, you will have to pay the printers for re-setting the matter already published. I do say that the information contained in the journal is information which the people need and expect. The journal of the Secretary is the common source of information, upon which the people rely in order to ascertain what their representatives have been doing in the General Assembly. And, as I have said before, it is entirely unprecedented, in the history of any deliberative body, to refuse to print the journal of its Secretary.

I must acknowledge that I am astonished at the course which some gentlemen have taken upon this subject. No doubt they have acted from pure motives, and with an honest desire to retrench the expenses of the convention, as much as possible. No member here, perhaps, is more anxious than I am to cut down all unnecessary expense. But when any expense is just and necessary, I am willing to vote for it. The convention, the other morning, decided to print fifteen hundred copies of the Journal; but the special committee had the resolution last evening before them, and decided to print only one thousand. They thought that fifteen hundred copies were, perhaps, more than were needed, and they cut the number down thirty-three per cent. This morning they refuse to print any at all, but they would favor the proposition to increase the number of copies of the "debates," and subject the convention to this additional expense. Why this change? The secretary's journal they say amounts to nothing. That may be the case as concerns the constituents of these gentlemen; but so far as my constituents are concerned, they will look to the secretary's journal, put it upon their shelves for reference hereafter, in order to know how their representatives have voted in this convention.

Mr. WILSON. My hostility to printing the journal does not stop here, but I am opposed to printing any additional copies of the "debates." I would prefer printing the journal to increasing the number of copies of the "debates," because I believe the printing of the journal would be much the cheapest. My opposition to printing the journal does not grow out of any want of confidence in our secretary, for I must say that I never saw any person fill a similar position with more satisfaction to the body, and who exhibited a greater amount of faithfulness in the discharge of his duties, and fitness for the place, than has the secretary of this convention. I am myself perfectly satisfied, and every other individual here, I have no doubt, is perfectly well satisfied with the manner in which he has discharged his duties. No fault has been found with him in any quarter.

But I regard the printing of the journal as an unnecessary expense. Take, for instance, the journals of the senate and house of representatives here, and you find that although large numbers of them are sent into every county, the majority of them are permitted to lie in the offices of the clerks of the district courts, and go to waste. Very few of them are distributed among the people. Once in a while, a man who is interested in politics will step into the office where they are deposited, and get a copy to take home with him for future reference; but the great mass of these journals are left to moulder in the offices of the clerks of the district courts. I believe this will be the case with the journals of the convention. A few men would lay them by for future reference, but the great mass of them would never be distributed at all.

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It is simply upon the ground of economy that I oppose the printing and distribution of the journal. I believe that the printing of it would amount to more than three thousand dollars; and if we can save that amount, I think it is well enough for us to do so. I am requested to state, that parties competent to judge of the exact number of pages which the journal will probably make, estimate it about two hundred pages. If it should not make more than that number of pages, why of course it obviates a part of the objection I have raised to its printing, because the cost will not be so great as I have estimated it would be.

Mr. SKIFF. I made the motion to reconsider because, from the remarks made by gentlemen in the discussion here, and from conversation with others, I came to the conclusion that the convention would favor the proposition to print an additional number of copies of the debates. I understand, however, that we cannot get them without paying for the matter which will have to be re-set, and, therefore, as a matter of economy, I shall go for printing the journal.

As the gentleman from Johnson, [Mr. Clarke] has remarked, there will be only some one thousand five hundred copies of these debates to go to a large number of inhabitants, so that they may know what we have done here. I do not suppose, of course, that the people will care very much about it, but if they should feel disposed to look over the journal, which I do not believe one in five hundred would, I wish to give them that privilege. When the question comes up, I shall vote for printing the journal.

Mr. WILSON. I hold in my hands a copy of the journal of the convention of 1846, which was in session four weeks. I find the number of pages of this journal to be two hundred and twenty-four. I think that we have done quite as much labor, during an equal time, as the convention of 1846, and that our journal in the same time will amount to quite as much as that. If so, we will find that our journal will contain nearly double the pages of that, because we will be in session nearly seven weeks, and we will have, no doubt, a journal of over four hundred pages.

Mr. EDWARDS. I wish to remark that the position I occupy is not out of disrespect to our secretary, for I hold him in the highest estimation, and regard him as one of the most competent secretaries I have ever known in a deliberative body. I made the motion to strike out that portion of the resolution which provides for the printing of the journal, because I believed it would involve an unnecessary expenditure of the people's money, and I conscientiously believe that it is not right to incur an expenditure which, in my opinion, is altogether unnecessary and uncalled for.

Mr. BUNKER. I have voted for the printing of the journal, for the reason that I wished to get the acts of the convention before the people, in a manner that would be the most intelligible to them. As the gentleman from Henry, [Mr. Clarke,] has remarked, the journal of the secretary is a history of the acts of this convention, while the reporter's journal goes into detail. I think we might just as well say that there should be no compiled history of the United States, and that there should be no other means of ascertaining information of the services of our fathers but by wading through documents which contained every word spoken by each individual in the organization of the government, as to say that we should have no journal of the proceedings of this convention. I go for printing the journal, because it will place before the people of the State an intelligible account of the acts of this convention.

Mr. WINCHESTER. The plea of economy advanced by some gentlemen of the convention, at this late day of the proceedings, is certainly very meritorious; but I have heard no argument conclusive and valid, to my mind, in opposition to printing this journal. How few, compared with the great mass of the people, will ever get hold of the debates of this convention. And even if they have the debates in their possession, how few, when they wish to refer to the action of the convention upon any particular subject, will wisb to look over and hunt up the action of the convention upon that subject from these volumes of the reports. It seems to me that, when members vote to pursue a course so unprecedented as this, their object must be to prevent the people from knowing the action of this Convention, and seeing the votes of the convention, without being obliged to read the peculiar views of the gentlemen of this convention who cast their votes in connection with these remarks. I am willing that my votes should go to the people without my views. I care not what any member of this convention says here upon any subject; I look to his vote, to his action upon the main question. I hope this journal will be printed.

Mr. HALL. If I could have brought myself to the same process of reasoning which has been adopted by the gentleman from Washington, [Mr. Bunker,] I should have been opposed to publishing the debates at all. He seems to think that they obscure our action, and that it will be necessary to publish a synopsis of our doings is order to get the matter before the people at all; that we should have to publish two editions, the debates and the journal; the journal that goes with the debates is so lost in the fog that the people cannot find it. I voted for publishing the debates, because they contain a true transcript of what is done here; and, with a proper index, which I have no doubt we shall have, it will be as easy to turn to any question in these debates as it is in the journal, precisely. Why should we publish two editions of our proceedings here? Will any gentleman give me any reason for it? Is one of them to be intelligible and the other unintelligible? If so, we have been guilty of the most egregious folly in publishing the debates at all.

Upon the score of expense; supposing that

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the journal contains six hundred pages, we shall have to pay for setting up that matter, and pay at a high rate. Then we must pay for printing it, and binding the journals when printed. Now the debates contain all of this very matter which is contained in the journal. The matter is already set up, and there will be nothing to pay for but press work, paper and binding. I have no doubt that you could print the same number of extra copies of the debates as you propose to print of the journal, as cheaply as you can set up the matter for the journal and print from that.

Mr. PARVIN. I understand that if we print an extra number of the debates we shall have to pay for the re-setting of the work already done, some three or four hundred dollars, I think.

Mr. HALL. I have information different from that, and information which I rely upon. It may be that we have about one hundred and forty pages of our debates already printed; but even the re-setting of that for the purpose of increasing the number can be done for less than setting up five or six hundred pages. Now I will not impute the zeal of the gentleman from Muscatine to the fact that he wants to give a good job to the printer of his town; but people sometimes "strain at a gnat and swallow a camel," or a saw-mill, to use the western phrase. Sometimes they stickle at a few dimes in the way of mileage, while they are willing to pour four or five hundred dollars into the lap of a single man because he lives in a particular locality. For my part, I believe it is a waste of money. It is throwing it away to undertake to publish two editions of our proceedings, one a large and the other a small volume.

I think that it is the most pitiful argument uttered in this convention, to say that the people cannot find out from this large volume of our proceedings, what we have been doing; it is a poor compliment to their intelligence; it is a poor compliment to their discernment. But how is a man to find out what we wished to do, if we send him a mere skeleton of our proceedings? In addition to the proceedings and action of this convention, this volume will contain all that is done in committee of the whole, and the history of every member can be traced there. Have gentlemen done anything here in committee of the whole that they are unwilling the whole people should know? Is there to be a distinction between two classes of people who are to get this information, of whom one is to get the full proceedings, and one the journal? Are there two classes: one to receive the debates, and the other the meager account in the journal? Are there two grades of intellect—one capable of comprehending the big volume, and the other only capable of understanding the little one? Gentlemen will have to solve this problem, or else, in every shape or form, I shall be compelled to look upon the proposition for printing this second edition as a matter entirely of folly.

I wish to say a word with regard to the idea that the refusal to publish this journal would be a reproach to the Secretary. I deny it. I am ready to bear testimony to the manner in which our Secretary has performed his duties. I will bear as strong testimony upon that subject as any other gentleman here. No one will go further in commendation than I will. But it does not follow that because we have published that journal in another form, incorporated with the debates, and provided by another officer of the convention, it is the slightest reproach to him that we refuse to publish his, containing only a portion of what the other contains. If we need a greater distribution, let us increase the number of the full reports, and let them go to the people; but let us not publish a second edition which will be inferior in every respect to the publication we have already made.

Mr. BUNKER. I rise for personal explanation. The gentleman from Des Moines [Mr. Hall] certainly misunderstood me I did not mean to intimate that the journal of our reporter is not perfectly intelligible; but I meant that it is voluminous; and the common reader will be taxed more if he attempts to examine it all; while the Secretary's journal is a synopsis by which the ordinary reader would be more likely to arrive at a knowledge of our acts than from the record of the reporter. This volume of debates will certainly be a more complete history, but he must wade through all our talk here to appreciate it, while the record of the Secretary contains the results.

Mr. CLARKE, of Johnson. As chairman of the committee that made this report, I desire to be indulged in a few remarks in relation to this subject; and I confess my utter astonishment, not only at the action of the convention this morning in view of the action a day or two ago, but at the action of the gentleman from Des Moines, [Mr. Hall.] I remember distinctly that in the discussions yesterday, quite a number of gentlemen heretofore opposed to his scheme of education, went for it, upon the avowed motive that having been members of the committee to whom the subject was re-committed, they felt morally bound to go for it, although it did not meet the entire approval of their judgment. Upon the report made this morning from the committee upon this subject, there was no diversity of opinion in the minds of the committee. The gentleman from Des Moines [Mr. Hall] assented to it. If he was opposed to printing these journals, for the ground assumed this morning is not a new one, and does not arise from any other consideration than that of public economy, or public duty, it seems to me that last evening would have been the time to make these suggestions, and not after the committee has made its report. It seems to me that that is not returning from his hands the kind of treatment he has received from the hands of other gentlemen. I think I understand that there are two motives at work

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to prevent the publication of these journals. The gentleman from Des Moines [Mr. Hall] has avowed one of them in his reply to a remark made by the gentleman from Muscatine, [Mr. Parvin.] He thinks that because certain gentlemen will not make certain allowances of mileage, their conduct is very improper in voting for this proposition. If gentlemen are offended at what was said last night upon the resolution of the gentleman from Marion, [Mr. Gibson], and therefore choose to vote down the printing of these journals as a matter of revenge, to gratify wounded feelings, let it be so understood. I shall not base my vote upon any such motive.

Another reason for this opposition is, to compel the convention to print an additional number of copies of these debates. We are told that this can be done at less expence than we can print these journals. I undertake to say, as a printer, and somewhat familiar with this subject, that no such thing can be done. In the first place we have to reprint some hundred and fifty pages of these debates. The style in which those debates are gotten up, with the amount of matter upon the page, the kind of paper upon which they are printed, and the style of binding in which the work is to be bound, I undertake to say will double the expense of printing these journals as proposed by this committee. I undertake to say this as a printer, having some knowledge upon the subject. And if gentlemen vote down the report of the committee, upon the score of economy, and then vote for printing an additional number of copies of the debates, it seems to me that they will be acting very inconsistently. Now, sir, in the very start, I voted in favor of printing three thousand copies of the debates. I voted to keep the amount as high as possible; but it was cut down, and by the votes, I apprehend, of some of the very gentlemen who are now voting against printing these journals. They voted then, and induced others to vote, upon the ground that we were to print the journals separate from the debates, and if we did that we did not need so many copies of the debates.

The gentleman from Des Moines asks us to solve this problem: Do we want for one class of our population these debates, which contain the action in committee of the whole, and for another class the journals, which do not contain the votes in committee of the whole? I will solve that problem in this way: I will say to the gentleman from Des Moines, that there was no vote taken in committee of the whole involving any important principle, or any important practical question, which was not again submitted in convention and the yeas and nays taken upon it. These journals will contain every vote upon any question or amendment, upon which there was a division of opinion, which will be found in the debates themselves. It is not for the purpose of providing one publication for one class of the people, and another publication for another class, that I desire the printing of this journal; but I desire it that our action may go before the people in a cheap and condensed form, so that they may be able to turn to the votes of members of the convention, and to know what they have done. It may be possible that some gentlemen in this convention are anxious to suppress certain votes which they have given here, and think that if they can limit the publication of the proceedings of this convention to fifteen hundred copies, they are in effect suppressing the publication of those votes given here in the convention. I have no desire of that kind. I have no fear in relation to my votes here. I am willing that they should go before my constituents, that they should canvass them, and if they disapprove of my votes, upon my head be the consequences. By the record of what I have done here, I am willing to stand or fall.

If these gentlemen had avowed their determination, at the commencement of this convention, that this journal should not be published, I undertake to say, that instead of printing fifteen hundred copies of the debates, we should have printed five thousand copies, and should have imposed upon the people of this state a debt, for printing the debates, which, instead of being five or six thousand dollars, would have been twenty thousand dollars. It was with the understanding that the journals should be printed in a separate form for circulation among the people, that the majority of this convention agreed to cut down the edition to fifteen hundred copies. But now certain gentlemen want to take the back track. They find that the distribution of these debates would not publish some things they want. Here they are voting to drive the majority to re-consider their vote upon the subject. What is done, is done; and I am willing to abide by it. Although we have not printed so many of the debates as I wanted, the thing is done, and it is too late to repair it. I call upon the convention to-day not to do an act unprecedented in itself, either for the purpose of gratifying personal feelings, or for the purpose of suppressing information among the people. It seems to me undignified, and not such conduct as become gentlemen occupying seats upon this floor. I hope that men of neither party will take a step which seems virtually to suppress among the people of the state a knowledge of the proceedings of this convention.

Mr. HALL. When this matter was referred to a committee of which I was a member, a day or two since, I understood that the matter had been settled by the convention that the journal was to be printed. It came to us in a different form. And inasmuch as I voted against the printing at the first, and have been all along constantly opposed to it, the charge that I am acting in bad faith comes with an ill grace, I think, from the gentleman from Johnson.

Mr. TRAER. If the gentleman refers to me as having taken the position that we were to print a smaller number of the debates because we were to print the journals, I certainly repudiate the idea of ever having taken such a po-

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sition as that. If the gentleman will refer to page forty-one, of the report of these debates, he will find that upon moving to reconsider, I expressly said that I was in favor of entirely omitting to publish the journal separately from the debates. I expressly said that I thought it was an unnecessary expense to have the journal printed separate and apart from the debates, and that was one reason why I favored a reconsideration. So that if the gentleman intended his remarks to apply to me, I appeal to the record to correct the statement at once.

Mr. CLARK, of Alamakee. I certainly care very little about what the gentleman from Johnson [Mr. Clarke] has said by way of impunging my motives upon this floor. If he means the remark to apply to me that I am opposed to the printing of this journal, I wish to say that I have been opposed to it from the beginning of this convention. I wish further to say that the subject was up one evening, in the presence of myself and friends, and if it was not actually agreed upon it was at least tacitly understood that we were not to print the journal. I have acted from that time upon that principle; and I believe that that was the correct course to pursue. But it was admitted that if it was printed, the gentleman's friends should have the printing. I wish further to say that I consistently stand upon that ground. I did not believe the printing of the journal to be necessary; and I do not intend now to change my course because possibly the gentleman from Johnson may have another friend who wants to get another slice from the public treasury for the distribution of these journals. The prices which have been paid for the distribution of the journals and laws have been pretty high, in my opinion. And now we are to increase the amount in the distribution of the debates. If you do not increase the number of volumes, I will guarantee to distribute them for the half of five hundred dollars, and give good security. Now if the journal is printed, there must be another slice to somebody else to distribute that throughout the state. There are only one hundred and forty pages of the reports yet printed; and three hundred dollars will pay for resetting the type, if it is desirable to print more than fifteen hundred copies. And that will be a saving in that operation of quite a large sum of money, over a thousand dollars in my opinion, by increasing the number of debates instead of publishing the journal.

But I do not believe there is any necessity for it. I am as willing and as desirous as any other member that every person in the state should have an opportunity to know how I stand upon any question which has come up here; but I believe they will get that information from the reports that are to be published. That is the reason I voted for these reports. I am willing to increase the number if it is thought best. It is said that they contain too much. That the people will not take the pains to look it all over, while if we had a small compact journal, they might catch it up and see at once how we voted. If that is the case, that the reports are not to be read, and that they are not to be of so much use as the proceedings without the debates, let us reconsider this vote by which we ordered the debates to be published at all, and publish the journal instead of it. I see only one tangible reason why gentlemen should be so tenacious of having the journal published, and that is that if we should conclude not to publish the journal, we should not be treating the committee with due respect in voting against their recommendations. I am not in favor of that kind of logic.

Mr. CLARKE, of Henry. Again the cry is brought up here that we are to have more reports. I recollect distinctly that when we had under consideration, in the room below, the number of these reports, upon striking out three thousand and filling the blank with one thousand five hundred, a gentleman now voting against us told us that we should have the journal printed, which would contain the whole of our proceedings and everything of that kind. That was to go out to the people; and the reports were only to be needed by those who wished to refer to them in order to learn the true intent and meaning, or the effect of different clauses of the constitution by having what members said with regard to them, and what was the opinion of the convention. That was urged upon every side; and because we were to have the journals printed, the number of our reports was stricken down to one thousand five hundred. Now these same gentlemen, having had that stricken down to one thousand five hundred, come in and wish to wipe out the journal entirely, to get rid of it; and now they are going to increase the number of our reports. I should like to have them do just that thing before we take the vote upon printing the journal. Let us have that tried first; and if the majority of the convention will come up to the original proposition of three thousand copies, I may in some degree be influenced in my vote with regard to printing the journal. I should not be so strenuous for it. I should feel that it was less necessary. But when these wonderfully economical gentlemen, after cutting down to the lowest number the edition of the reports, because the journal was to be printed, now attempt to cajole us into foregoing the printing of the journal, because they may at some future time increase the number of the reports. I am reminded by their manner of procedure, of the Irishman who went into a restaurant kept by a Dutchman, and called for some bread and cheese. After he had got that, he told the keeper that he would take some whisky instead of the bread and cheese. So he handed him back the bread and cheese to pay for the whisky. After drinking the whisky he turned to go out, when the Dutchman demanded pay for it. "Och, sure and I gave you the bread and chaze for the whisky." "But where ish de money for the pread and sheze?" "The devil; and would you have me pay for what I didn't ate?" The

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Dutchman scratched his head for awhile, and at last said, "I tinks dere ish a mishtake somewhere; you may be right; but I don't want you to come to my sthore some more." [Laughter.] That is the argument that is addressed to us. They wanted us to do without the three thousand copies of the debates, on the ground that we were to have the journals. Then they wanted us to give up the journals on the ground that by-and-by they are going to increase the number of the debates. And the result will be that we will get neither the debates nor the journals. It is certainly not a satisfactory argument to me. If we had known that we were not to have the journals, we could certainly have ordered three thousand copies of the debates.

I was rather surprised at another remark of the gentleman from Des Moines, which seemed to show the reason for this sudden opposition which has grown up here to the printing of the journals. He inadvertently dropped the remark that some gentlemen were perfectly willing to strain at a gnat when assessing mileage, but to swallow a camel when they came to printer's fees, or something to that effect. I hope that gentlemen will not be affected by this matter. If the gentleman from Muscatine, [Mr. Parvin,] who has advocated the printing of the journal so strenuously, has in any way in his opposition to allowing certain mileage fees, created any enmity, I hope the gentlemen thereby hurt, will not, out of feeling against him, and to punish him, cut the throats of their own friends. I stood with the gentleman from Des Moines here in favor of publishing three thousand copies of these reports. We did not get them; we only got half the number. And now I want the journal printed at all events, so that we can have that to distribute. But the gentleman from Des Moines has let another thing escape him, which has solved another matter in my mind, which had been a matter of great wonder and astonishment to me. I must say that nothing in the whole course of my life has ever so much astonished me as the miraculous success of that gentleman in carrying through here a system which I believe is fraught with more evil and is involved in more doubt and darkness than any thing which has passed this body. I refer to the school system. He has had miraculous success, and I wondered how he obtained it.

The PRESIDENT. The gentleman from Henry will confine himself to the question.

Mr. CLARKE, of Henry. In a moment.

The PRESIDENT. The chair is of opinion that the gentleman is out of order.

Mr. TODHUNTER. I hope this personal quarrel will be stopped.

Mr. CLARKE, of Henry. There is no personal quarrel about it. An attack was made upon a gentleman acting with me upon this question, and in sustaining him I think I am sustaining his side of the question. I consider it entirely in the line of argument.

The PRESIDENT. The chair entertains a different opinion, and must call the gentleman to order unless he confines himself to the question.

Mr. CLARKE, of Henry. I have merely to remark from what I see here, and the understanding I have upon this matter, that perhaps the same influences have been brought to bear with better success in regard to this matter. That an attempt was made to carry votes in support of that measure, I have no doubt; and I have no doubt the gentleman supposed he was sure of one vote which he did not get; and from the fact that that vote was cast differently from what he expected, I must believe he was mistaken when he supposed he had secured that vote in behalf of his measure.

The PRESIDENT. The question is upon the motion of the gentleman from Lucas, [Mr. Edwards,] to strike out the provision for printing the journal.

Mr. MARVIN. I am against striking out, and perhaps I may be permitted to express in a few words, some of the considerations which govern me. In the first place, we have ordered but a small number of the debates. I think that the proposition to print one thousand of the journals is a very modest proposition. We need more copies than we shall have of the debates; and I believe this to be the cheapest way we can get them. If we dispense with the printing of our journal, every legislature that meets here may, with equal propriety, dispense with the printing of its journal, and the community would thereby be left in the dark in relation to the action of the legislatures; and they might do this, especially if they should want to do anything that they would prefer the public should not understand.

I consider the publication of the journal as important in another light. Although we may give hasty glances at the proof-sheet of the reporter here, I venture to say that no member carefully reads over the yeas and nays to see whether he is put down always exactly right. We merely look at the report in a hurried manner. But the journal of the secretary is carefully listened to; and we have come to the conclusion that that is right anyhow, whether we listen to it carefully or not. We know it is right. Now if by any chance the reporter should be mistaken, and if the error should escape our attention, we know that the secretary is right. I wish the journal printed for that reason. It would correct the errors, if there should be any, and would be corroborating testimony at all events, if it should agree altogether with the report.

I have still another reason. We have many young men in this State who desire to become well acquainted with the manner of keeping the record of the proceedings of deliberative bodies. It is admitted upon all hands, that our proceedings are kept as well at least as any ever kept in this State, or in any other. I should like to have the journal printed as a text book for young men who desire to become secretaries to

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deliberative bodies, who desire to study that branch. If a young man wants to be a proficient in it, let us give him a text book. I consider the journal of this convention well suited to serve as such a text book. It will be worth all that it will cost, to educate our young men that wish to be occupied in the same position. Then the State will save in addition ten times as much in having her officers hereafter proficients in this business. I hold to-day that we have saved hundreds of dollars by our selection of a secretary. I intend no flattery in this remark; but such is the fact, and we all know it. I trust and hope that this journal will be published.

Mr. GOWER. I have been thinking about this matter considerably, and I have been sorry to see what I have seen. I am in favor of printing fifteen hundred copies of our journal, which I understood to be the proposition in the beginning. I have no doubt that we shall be sustained in that by the people. As to the objection of the gentleman from Des Moines, that it may be designed to confer a favor upon some political friend of some member, supposing it to be true, I think that after the precedents we have had, he cannot reasonably complain. I have known printing sent from this convention to Des Moines, which I suppose he will very well recollect. As to any reason founded upon any vote upon the question of mileage, I cannot believe that that is the fact. I cannot believe there are members here who would take that course. I believe all are willing that that should be settled upon its merits. I cannot think that members here would either exhibit the feeling, or be willing that it should go out from this convention, that they took a course of action relating to this, or any other part of our action, to embarrass any other portion of the members of this body. I should be sorry to see it, and think there was no foundation for the hints thrown out with regard to it. I think that every member here would be above that. That is a matter merely of dollars and cents, affecting ourselves; and it should be laid aside when considering any question relating to the constitution.

Mr. SOLOMON. I do not know that any gentleman desires to speak any further upon this question; but I see that it is now after eleven o'clock. I am very anxious that we should get through with this question, and therefore, purely to get along, I move the previous question.

The call for the previous question was seconded, and the main question ordered to be put.

The question was stated to be upon the amendment of Mr. Edwards, to strike out the provision for printing the journal.

Upon this amendment—

Mr. CLARKE, of Johnson, called for the yeas and nays, which were ordered.

The question being taken, by yeas and nays, the amendment was not agreed to; yeas 12, nays 21, as follows:

Yeas—Messrs. Clark of Alamakee, Day, Edwards, Gillaspy, Hall, Hollingsworth, Johnston, Palmer, Patterson, Robinson, Solomon and Wilson.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clarke of Johnson, Ells, Emerson, Gibson, Gower, Gray, Harris, Marvin, Parvin, Peters, Scott, Seely, Skiff, Todhunter, Warren, Winchester and Young.

The next resolution was read as follows:

Distribution of the Journal.

"*Resolved*, That each member of this convention be entitled to twenty-five copies of the journal of this convention for distribution, and that the remainder of said journals be placed in the State Department for the use of the State."

Mr. MARVIN. I will move to strike out "five," so as to read "twenty copies."

Mr. CLARKE, of Johnson. Twenty-five copies each will take nine hundred; and that will leave one hundred for the State.

Mr. MARVIN withdrew his amendment.

Distribution of the Constitution.

The fourth and fifth resolutions were read as follows;

"4. *Resolved*, That the ten thousand copies of the constitution, (the printing of which is provided for in the foregoing resolution,) be divided among the counties according to population; and that the same be sent to the county judge of each county for distribution among the people."

"5. *Resolved*, That the German Constitution be divided among the counties under the direction of members of this convention in their respective districts as follows——"

Mr. CLARKE, of Johnson. We could not apportion that, because we had no knowledge of the number of Germans in each county; and we left it to the convention to fill up that statement. In some counties there is a large German population, while in others it is very sparse. Hence a division according to population would not be a fair division.

Mr. WINCHESTER. Does not the census show the number?

Mr. CLARKE, of Johnson. I do not know that it does.

Mr. HALL. It is impossible to regulate this without knowing the amount of the German population in the different districts. In some counties it is very large, and in others it is very small. Lee, Des Moines, and Scott counties have a very large German population, but there are comparatively few in Henry and Van Buren counties. It is quite large again in Jefferson county. I would propose that each member designate the number he would require for his district, and I would name two hundred for Des Moines county.

The PRESIDENT. The Secretary will call

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the roll, and each member will answer for his district.

The SECRETARY commenced calling the roll.

Mr. HARRIS. I do not know that I need any, so far as my own county is concerned. We have some Germans there, but they can read English.

Mr. PARVIN. Would it not be a fair way to distribute these among the different counties according to the number of naturalized voters as given in the last census?

Mr. HARRIS. We have a good many Irish; and I do not believe the Irish could read the German Constitutions. (Laughter.] So that I do not think it would be any fairer way to settle it.

Mr. CLARKE, of Johnson. I would suggest that members leave the number with the secretary that they require for each county of their district, and the apportionment can be made from that. Then the constitutions can be sent to the county judge of each county.

Mr. SOLOMON. There is a slight objection to that. Some members may require a greater number than they ought to be permitted to take.

Mr. GILLASPY. I hope that the constitutions will be sent to the members, and not to the county judge. The county judge in my neighborhood is a Know Nothing, and would not distribute them. I am a friend to the Dutch, and propose to deliver them myself.

Mr. EMERSON, when his name was called, said: I really do not know how I am to judge what number we are entitled to, for I suppose the number must depend somewhat upon the number published. We shall have to make the number ordered here agree with the number ordered to be printed. Not less than five hundred would answer for my district, I think. I should think one fourth, or at least one fifth, of the whole population of my county was German.

The roll having been called, and the number added up, it was found that four thousand one hundred and seventy copies were called for.

Mr. SCOTT reduced his number from five hundred to three hundred.

Mr. WILSON reduced his from seventy-five to fifty.

Mr. GILLASPY reduced his from one hundred to fifty.

Mr. WARREN. Gentlemen will recollect that there is a class of Germans that can read English. They prefer reading English to German, because they want to learn our language; and I think that if we should all reduce the number somewhat, so as only to order enough to supply the reading part of the Germans who do not read English, it would be better. I will reduce my number from fifty to twenty-five.

Mr. BUNKER reduced his number from seventy-five to fifty.

Mr. CLARKE, of Henry, reduced his from one hundred to fifty.

Mr. EMERSON reduced his from five hundred to four hundred.

Mr. HARRIS reduced his from twenty to fifteen.

Mr. MARVIN reduced his from forty to twenty.

The Secretary read the list, as corrected, as follows:

	COPIES.
The President,	50
Mr. Ayres,	10
Mr. Bunker,	50
Mr. Clarke, of Alamakee,	200
Mr. Clarke, of Henry,	50
Mr. Clarke, of Johnson,	300
Mr. Cotton,	100
Mr. Day,	10
Mr. Edwards,	30
Mr. Ells,	500
Mr. Emerson,	400
Mr. Gibson,	100
Mr. Gillaspy,	50
Mr. Gower,	50
Mr. Gray,	50
Mr. Hall,	200
Mr. Harris,	15
Mr. Hollingsworth,	50
Mr. Johnston,	500
Mr. Marvin,	20
Mr. Palmer,	50
Mr. Parvin,	100
Mr. Patterson,	—
Mr. Peters,	25
Mr. Price,	100
Mr. Robinson,	—
Mr. Scott,	300
Mr. Seely,	50
Mr. Skiff,	50
Mr. Solomon,	50
Mr. Todhunter,	25
Mr. Traer,	50
Mr. Warren,	25
Mr. Wilson,	50
Mr. Winchester,	50
Mr. Young,	10

Mr. SOLOMON. I would suggest that the Secretary be ordered to graduate the numbers given in here, so as to reduce it to three thousand.

Mr. WILSON. I would make the suggestion that where we have already made a sufficient reduction ourselves, no further reduction should be made. I do not think that seventy-five would be too large a number for my district; but seeing the necessity of reduction, I have cut off twenty-five.

Subsequently, the Secretary prepared and read the following statement, which was adopted, to accompany the foregoing resolution:

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	COPIES.
The President,	40
Mr. Ayres,	10
Mr. Bunker,	50
Mr. Clarke, of Alamakee,	150
Mr. Clarke, of Henry,	75
Mr. Clarke, of Johnson,	225
Mr. Cotton,	25
Mr. Day,	10
Mr. Edwards,	30
Mr. Ells,	350
Mr. Emerson,	375
Mr. Gibson,	90
Mr. Gillaspy,	50
Mr. Gower,	40
Mr. Gray,	40
Mr. Hall,	150
Mr. Harris,	20
Mr. Hollingsworth,	40
Mr. Johnston,	375
Mr. Marvin,	25
Mr. Palmer,	40
Mr. Parvin,	75
Mr. Patterson,	—
Mr. Peters,	15
Mr. Price,	90
Mr. Robinson,	—
Mr. Scott,	300
Mr. Seely,	40
Mr. Skiff,	40
Mr. Solomon,	30
Mr. Todhunter,	20
Mr. Traer,	40
Mr. Warren,	40
Mr. Wilson,	50
Mr. Winchester,	40
Mr. Young,	10
Total,	3,000

Mr. PATTERSON representing Lee county with Mr. Johnston; and

Mr. ROBINSON representing Des Moines county with Mr. Hall, the numbers for the whole county were placed opposite the first name in each case.

The next resolution was read as follows:

Compensation of Secretary.

"6. *Resolved*, That T. J. Saunders, the Secretary of this convention, be employed to index, superintend the printing of, and distribute the journals and constitutions herein provided for; and that he be allowed the sum of three hundred and fifty dollars as a compensation in full for said services."

Mr. GOWER moved the following amendment:

"*Resolved*, That there be but one person employed to distribute our reports, journals, and American and German constitutions, and that the publishers deliver to the person so employed."

Mr. GOWER. It appears that these are to be published at different places; but they can easily be delivered at one place anywhere upon the river. Employing one person to deliver the whole will be the most economical plan that can be adopted.

Mr. CLARKE, of Johnson. I desire to say, with reference to the resolution reported by the committee, and the amount allowed, that we find that the General Assembly, at the last session, allowed the clerks four or five hundred dollars for superintending the printing, indexing, and distributing the journals of the different Houses. We supposed that the preparation of the journal of the convention, and the circulation of the constitutions and journals would not be so heavy a job as that given to the clerk of either branch of the legislature. Hence we concluded to fix the amount at three hundred and fifty dollars, which we supposed would be a fair compensation. In conversation with the late Secretary of State upon this subject some weeks ago, not with any particular reference to this matter, but when the subject was under consideration in the Senate, he remarked to me that the amount heretofore allowed for circulating the laws in the different counties had never paid him. He had always had to pay for sending them out.

I would also state in answer to the remarks of the gentleman from Cedar, [Mr. Gower] that the resolution at first contemplated the Secretary of State to circulate and distribute the debates; but we found that he had the laws to distribute, and it was thought by the committee that he might seek to make one job of it, and in that way the debates might be delayed. It was important to get them out without waiting for any other work. Hence it was thought best that the Secretary should attend to this distribution. If we put it all into the hands of one person, the circulation of the debates, the constitutions, and the journals, as the journals will be printed off and completed first, their distribution would be delayed until the debates could be finished, which will not be before July or August, nearly the time when the people will be expected to vote upon the constitution. Our object is to get the information before the people immediately, and we therefore divided the distribution, making it the duty of the Secretary of the convention to distribute the constitutions and the journals, so that there shall be no delay. That is the object of the resolution.

Mr. GOWER. I will merely inquire if, under the present arrangement, as the reports, journals, American constitution, and the German constitution, are all of them to be published in different places, their distribution over the state is to be paid for individually and separately.

Mr. CLARKE, of Johnson. No, sir; the report of the special committee only contemplates employing two persons. This report contemplates employing the secretary of the convention to distribute the journals and the constitution both in English and in German. The report of the other committee gives the superintending

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and the indexing of the debates to the reporter, and the distribution to the sergeant-at-arms.

The amendment was rejected.

Mr. GILLASPY moved to add that the copies should be sent to the members.

The amendment was agreed to.

Mr. HALL moved to add the following:

"*Resolved*, That Henry P. Scholte, of Pella, Marion county, be employed to translate and print one thousand copies of the constitution in the Holland language, and that he be required to distribute the same to the Hollanders in this state; and that he receive the usual compensation for his services and postage."

The amendment was agreed to.

The resolutions as amended were agreed to.

Mileage.

Mr. CLARK, of Alamakee, offered the following resolution:

"*Resolved*, That the committee on expenditures be instructed to report the mileage of members of this convention, upon the same principles and the same construction that was allowed senators in the last general assembly."

Mr. EDWARDS. I regret exceedingly that I cannot vote for that resolution, offered by my friend from Alamakee. That general assembly may have done some things that I cannot endorse; if they have done anything wrong I do not wish to endorse it. If there were any members of that general assembly who robbed the state in violation of law, I do not wish, for one, to endorse it. We have a law to govern us; and we can be our own judges of what is right and what is wrong, as well as our masters, the general assembly of this state. I am opposed to this resolution. I am disposed to do justice to the gentleman from Alamakee, or to any other gentleman with regard to mileage, but I cannot vote for a resolution that I regard so preposterous as this.

Mr. GILLASPY. That resolution, if adopted, operates hardly upon the gentleman from Lucas, [Mr. Edwards,] for the senator from that district lives some thirty-five miles nearer to Iowa city than the gentleman himself; so that if we adopt that construction—

Mr. EDWARDS. No, sir; it is about the same distance.

Mr. GILLASPY. Then I was misinformed.

Mr. WILSON. I hope the convention will not adopt that resolution. I am opposed to it because I believe it is wrong. I believe that the act of the last general assembly, granting mileage, according to the construction sought to be applied in this case, was wrong. By the construction which is sought to be given, I should be entitled to fifty dollars mileage; whereas I am justly entitled to about eighteen dollars. I understand that some members of the western districts go up as high as a hundred and twenty dollars mileage. At the last general assembly members claimed mileage round through Illinois. I do not think we are justly entitled to mileage in traveling through Illinois. I have no doubt that the gentlemen who claimed that mileage were sincere and honest. I do not wish to say anything against that. But it is a difference of opinion. So far as I am concerned, I cannot look upon it in any other light than wrong. It is wrong in every light in which I can view it.

I therefore hope the convention will not follow the precedent established by the last general assembly. I do not want more than that, and I hope others will be satisfied.

Mr. ELLS. I very heartily concur in the remark, that we have a character of our own; and I hope we shall sustain it.

Mr. CLARK, of Alamakee. I have been somewhat interested and amused at certain positions taken here in this convention, and I have found that in almost every position taken by certain members, the proceedings of the last legislature have been law and gospel to them. How have we acted this morning? Two or three reports from special committees came in here, reporting the amount of pay to be allowed to certain officers, putting it upon the same ratio that is now fixed for the state printer. Who fixed the pay of the state printer? It was the last legislature, was it not? We have found the same principle acted upon from the commencement of the convention to the present time. Almost universally that principle holds good; but wherein that action happens to be distasteful, then the proceedings of that legislature must be set aside; then it will not do. Upon the fourth day of this convention, I find that the following resolution, based upon this principle, was offered by Mr. Clarke, of Johnson, and agreed to by the convention:

"*Resolved*, That John Teesdale be employed to do the incidental printing of the convention, at the prices now paid the state printer for similar kinds of work."

Now what is sauce for the goose is sauce for the gander. I find that these special resolutions were offered by men who had special friends here. And I find that when they are to be voted upon, and when these friends are to have a lift, the acts of the legislature are law and gospel all the time. But when the principle is to be applied generally to the convention, and when they are not to be benefitted, then they want a different rule here. So far as the gentleman is concerned, and I may say the same of all the rest, I believe they are upright and sincere in this. If the rules established by the legislature are good in one case, they should be good in another case. It will not do to say that in ninety-nine cases out of a hundred which may arise, we will be governed by the rules established by the legislature, and the pay given by them for similar work, and then in the hundredth case say that the rule shall not be followed. They should not have begun, unless

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they were willing to follow it out. I hold in my hand the act of the legislature, which called this convention together; and let us see for a moment what it says.

"Section 8. Each delegate shall receive three dollars per day from the state treasury, for each day that the convention shall be in session; and three dollars for every twenty miles traveled in going to and returning from said convention; the said mileage to be computed by the usually traveled route."

Now, what is the fair construction of that? My friend from Jefferson says it will not do to pay for going round by the railroad, because, forsooth, we go into Illinois. The legislature which called the convention together, which passed the law upon which our action is predicated, meant to say, and did say by their own common-sense construction of the very phrase, that the usually traveled route means the usually traveled route at the time the traveling is required to be done. Any other construction would make nonsense of it. If this was intended to apply to the time when the traveling is required to be performed, then there is a contract between the state upon the one side, and members of the convention upon the other side, that we shall have this mileage. It is true, we might take up our line of march direct for the state capitol, and run the risk of lying out over night, or being obliged to go on horseback or on foot part of the way, and thus might possibly have come by the usual summer route at the time when we were required to come; but that is not the route which any prudent man, attending to his own business, and paying his own expenses, would follow in traveling from that place to this; and therefore at the time when we were required to come it was not the usually traveled route. I can see no other fair construction than this. I wish to remind gentlemen that they have been pretty liberal in getting through appropriations for some of their friends. There is no mistake about that. I find no fault with it. I do not believe any man should be required to work for the state without a fair compensation, one that will at least enable him to live. But I am sorry to see that when that is accomplished and got through with, the same gentlemen turn round, and because they cannot receive any pecuniary profit from it, pursue a niggardly, parsimonious, picayune policy as to the mileage of members of this convention.

Let us look at it for a moment. Take my own case. Give me the mileage which gentlemen want to pay, by the nearest traveled route in any season of the year, and my expenses will be some thirty dollars more than the mileage given me for going and returning. Yet I traveled the usually traveled route at the time the traveling was required to be done. I traveled the same route I should have taken if I had had occasion to come to Iowa City on my own private business, paying my own expenses. I want pay for no more than the actual number of miles traveled, and which I would have traveled at the same time, if I had been upon my own private business. Is there any justice or reason in saying that I shall receive from the state less than what I actually pay for my traveling expenses, and less than what the act which called me here by a fair construction would give me? Certainly not. I apprehend that the legislature established this principle, and that the succeeding legislature voted upon that principle in adopting their pay per mile upon the route to be traveled when they adjourned, which was the same by which we traveled in coming to this place.

Mr. EDWARDS offered the following substitute for the resolution:

"*Resolved*, That each member hand into the secretary a statement in writing of the mileage he is entitled to, together with the route of travel he claims upon, to be acted upon by the convention."

Mr. CLARK, of Alamakee. I shall be opposed to that amendment, if it is intended that these statements, thus furnished by members, are to go to the committee on expenditures.

Mr. EDWARDS. Then let them be acted upon directly by the convention.

Mr. CLARK, of Alamakee. I cannot consent to have it go to the committee in that shape, though I am willing to have the matter settled by the convention.

Mr. WARREN. I want to have a vote upon this matter, which shall be a test vote. If gentlemen are disposed to vote down this resolution as it now stands, then let them do so. If it is adopted then the committee will be instructed to report in the manner here proposed.

Mr. HALL. I hope the resolution of the gentleman from Lucas [Mr. Edwards] will be adopted, and that this convention will thus say that they will trust their members far enough to take their own statements upon this matter. It seems to me there is honor enough among members of this convention to justify us in trusting each other. Each member will be responsible only for his own statement, and not for that of any other member. This resolution does not commit us either one way or the other. I do not think any member here will claim an improper amount of mileage. Each member knows the usually traveled route from his district to this place, better than any other member can know it. And I am willing to say that, when any member has presented his statement here, I will believe him to be honest, and act upon it accordingly. I hope that we will show at least this much courtesy towards each other.

Mr. GILLASPY. I occupy the same position as does the gentleman from Des Moines, [Mr. Hall.] I do not wish to set myself up in judgment upon the amount of mileage due to any member upon this floor. I know it was announced by the gentleman from Benton [Mr. Traer,] in the early part of our session, that the members of this convention were disposed to steal, and the gentleman from Henry [Mr.

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Clarke] said that they would go home with the word "thief" pinned upon their backs. Now I am not disposed to believe that any member here will do any such thing.

It matters not to me what action this convention may take in regard to this subject of mileage. I expect to claim merely the amount of mileage that has been heretofore paid to members of the legislature from my district, that is, by the overland route; although the last three times that I came to this capitol, I came by the way of Burlington, through Illinois. That is the usually traveled route, at this season of the year. I shall, however, not take a dollar over the amount of mileage due by the route from this place, across the country to my town.

But such may not be the case with other gentlemen here. And I am disposed, by my vote, to leave this matter entirely to them, for they know better than I do, the usually traveled routes from their homes to this place. I am willing to go for the resolution of the gentleman from Alamakee, [Mr. Clark] while at the same time I will say that if it should allow me more mileage by the way of Pond Creek, Illinois, and Burlington, I will not avail myself of it, but take merely the mileage according to the overland route. I do not believe there is a member upon this floor, who will hand in to the secretary other than a true statement of the number of miles he was necessarily compelled to travel, at the time he came here.

Mr. CLARK, of Alamakee. I do not claim mileage for myself, by the way of Illinois, and I will not take it. But it is the principle that I am contending for.

Mr. HARRIS. I occupy the same position with the gentleman from Wapello, [Mr. Gillaspy.] I expect to take mileage by the usually traveled route across the country to my town. I certainly should not, as I view this matter, feel at liberty to take mileage in any other way. I do not know that gentlemen here desire to take anything more than that. I am not, however, disposed to set myself up here as to what the rest of the convention should do in this matter. I want them to decide this matter for themselves.

I shall, therefore, vote for the proposition of the gentleman from Lucas [Mr. Edwards.

Mr. CLARKE, of Henry. I regret that my friend from Wapello, [Mr. Gillaspy] should misunderstand me, for there has heretofore generally been a pretty good understanding between us. But he has misquoted me. My remarks about our going home with the word "thief" pinned upon our backs, were made in reply to some remarks made by some gentleman here, while we were considering the resolution for supplying ourselves with the reports of the supreme court of this state. Some gentleman made use of language here, which I thought, at the time, impugned the motives of those who advocated that resolution. And I said, that in order that that gentleman, should not be under the necessity of going home with the word "thief" pinned upon his back, I would move an amendment, that the secretary of state be called upon to supply these reports to those members only who should request them of him.

In regard to the resolution now pending, I have but this to say, that while the gentleman from Des Moines [Mr. Hall] made almost the remarks that were upon my own lips, in regard to allowing members here to send in their own accounts for mileage, and have them audited without any further action of this convention,—while I concur with the gentleman, and am perfectly willing to abide by that course, and allow every member to defend his own account before his constituents, still I am perfectly willing that gentlemen who are anxious to establish a correct principle upon which mileage should be reckoned, should have an opportunity to give their votes to that end.

The language of the act calling this convention together, is as follows:

"Each delegate shall receive three dollars per day from the state treasury for each day's attendance in said convention, and three dollars for every twenty miles' travel in going to, and returning, from, said convention; the mileage to be computed by the usually traveled route."

That language might be differently construed by different individuals; and a person might honestly come here and charge mileage by the route he traveled in coming here. Of course the legislature, when putting this provision in that act, supposed that "the usually traveled route" would be, not the route then usually traveled, at the time of the passage of the act, but the route usually traveled when delegates to this convention should come from their homes here, and return from here home again. Now gentlemen may find that, from the condition of the country, in consequence of the carrying away of the bridges, &c., by the late flood, they cannot take a direct route home, and the usually traveled route when they came here is not the usually traveled route at this time, and they will, consequently, be compelled to go home by some other way.

Now what did the legislature contemplate when they passed this act? They contemplated that delegates would act honestly, and come here by the usually traveled routes, at the time this convention assembled. If they had to travel one hundred miles or five hundred miles to get here, they should be paid by the route they traveled. That is what the legislature intended, not that mileage should be computed by an air line. Now, if a delegate resides, for instance, in Alamakee county, and cannot possibly get here, except by going around through Illinois, why should he not be allowed mileage for the distance he is compelled to travel, the same as a man who could come here from his place of residence by an air line? The legislature meant by "usually traveled route," the route you are compelled to travel.

Now who constitute the best authority to construe this law? The law makers, themselves;

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the legislature that passed the law. They have given it a construction, and have acted upon it. Now I do not know what that construction is. I have never examined it. But I know what my own idea of it is. I know what I shall charge. I intend to charge mileage by the route I came here. I traveled about sixty miles, while an air-line would be only about fifty miles. I do not know by what route I shall go home.

I shall not undertake to judge for other men. Those who passed this law have put a construction upon it. The gentleman from Jefferson, [Mr. Wilson,] says that it was a wrong construction. I do not know how he can be better qualified to give the proper construction of that law than those who passed it. It may be that he is, but I believe that the legislature is the best authority. All that the gentleman from Alamakee, [Mr. Clark,] asks, is, that the construction shall be given to this law that its framers have given it. I shall vote in favor of his resolution, whatever those instructions may be.

Mr. EDWARDS. There are several members here who desire a direct vote upon the resolution of the gentleman from Alamakee, [Mr. Clarke.] I will, therefore, withdraw my substitute for the present, in order that a direct vote may be taken upon his resolution.

The question recurred upon the resolution offered by Mr. Clark, of Alamakee, which was read as follows.

"*Resolved*, That the committee on expenditures be instructed to report the mileage of members of this convention upon the same principles and the same construction that was allowed senators in the last general assembly."

Mr. HALL. I move to lay this resolution upon the table, for the purpose of offering the one indicated a short time since by the gentleman from Lucas, [Mr. Edwards.]

Mr. CLARK, of Alamakee. I am willing to withdraw my resolution, as long as the motion to lay it upon the table has been made, and let the question be taken upon the one offered by the gentleman from Lucas, [Mr. Edwards.]

Objection was made to withdrawing the resolution.

The question recurred upon the motion to lay the resolution upon the table.

Upon this question the yeas and nays were ordered.

The question being then taken, by yeas and nays, upon the motion to lay upon the table, it was not agreed to; yeas 12, nays 22, as follows:

Yeas—The President, Messrs. Day, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Palmer, Patterson, Robinson, Solomon and Warren.

Nays—Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Emerson, Gibson, Gower, Gray, Marvin, Parvin, Peters, Price, Scott, Seely, Todhunter, Traer, Wilson, Winchester and Young.

The question recurred upon the resolution.

Upon this question—

Mr. EDWARDS called for the previous question.

The previous question having been seconded, the main question was ordered to be now put.

The main question was upon the resolution.

Upon this question—

Mr. EDWARDS called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, upon the resolution, it was not adopted; yeas 10, nays 28, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Emerson, Gibson, Peters, Price, Scott, Seely and Solomon.

Nays—The President, Messrs. Bunker, Clarke of Johnson, Day, Edwards, Ells, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Robinson, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Mr. DAY, when his name was called, said: I think the principle established by the general assembly, in regard to mileage, went too far. As I understand it, they claimed mileage through one section of country at the time there was a perfectly good and a shorter road, by stage, through another section of country. I therefore vote "no."

Mr. MARVIN, when his name was called, said: I should like to be excused from voting, as I do not know what the senate did in this matter. I therefore decline voting.

Mr. SOLOMON, when his name was called, said: I shall vote in favor of this resolution, upon this principle: our legislature has the distribution of the funds of the State, and they all come from the same districts that we come from. And as they paid themselves, I am willing to be paid, though I do not know what it is.

Mr. YOUNG moved that the convention now take a recess till 2 o'clock P. M.

Mr. JOHNSTON. I hope the gentleman from Mahaska, [Mr. Young,] will withdraw that motion for the present, for this reason. The committee on expenditures desire to have some decision of the convention upon this subject of mileage. The resolution of the gentleman from Alamakee, [Mr. Clark,] was intended to give instructions to the committee. As that has been voted down, we desire to have some other instructions given us.

Mr. YOUNG. I cannot withdraw the motion.

Upon this motion—

Mr. HALL called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon the motion to take a recess, it was not agreed to; yeas 10, nays 24, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Johnson, Edwards, Gower, Hollingsworth, Parvin, Todhunter, Wilson and Young.

Nays—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Ells, Emerson, Gibson, Gillaspy, Gray, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson,

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Scott, Seely, Solomon, Traer, Warren and Winchester.

Mr. HALL. I offer the following resolution, which is that of the gentleman from Lucas, [Mr. Edwards,] with some modifications:

"*Resolved*, That each member hand in to the secretary a statement in writing of the mileage to which he is entitled, with the route of travel he claims upon; and that such statements be taken as the true mileage of members."

Upon this resolution—

Mr. HALL called for the previous question.

Mr. GRAY offered the following as a substitute for the resolution:

"*Resolved*, That the mileage of members of this convention be computed upon the basis of the nearest distances traversed by the United States mails, between the residences of members and this capitol."

Mr. HALL. Can a substitute be offered after I have called for the previous question?

The PRESIDENT. The chair did not hear a second to the call, before the gentleman from Linn, [Mr. Gray,] offered his substitute.

Mr. SOLOMON. I seconded the call for the previous question as soon as it was made.

The PRESIDENT. The question then is—Shall the main question be now put?

The question being taken, the main question was then ordered.

The question was upon the resolution.

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon the resolution, it was adopted; yeas 22, nays 12, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Clarke of Henry, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Solomon, Warren and Winchester.

Nays—The President, Messrs. Bunker, Clarke of Johnson, Ells, Gower, Gray, Hollingsworth, Parvin, Todhunter, Traer, Wilson and Young.

On motion of Mr. TRAER,

The convention then took a recess until 2 o'clock P. M.

EVENING SESSION.

The convention re-assembled at 2 o'clock P. M., and was called to order by the President.

Mr. CLARKE, of Johnson. Regarding the vote taken this morning, just before the recess, upon the resolution concerning the mileage of members, as instructions to the committee on expenditures to do an act, which, in my judgment, would be in violation of law, and not recognizing the right of this convention to impose any such duty upon me, I beg leave to decline serving any longer upon that committee.

Mr. SOLOMON. I move that the gentleman be excused from further serving upon the committee on expenditures.

The question being taken, the motion was agreed to.

The PRESIDENT appointed Mr. Bunker upon the committee, in place of Mr. Clarke, of Johnson, who was excused from serving.

Per Diem of Members.

Mr. CLARK, of Alamakee, offered the following resolution:

"*Resolved*, That the *per diem* allowed members of this convention, shall not be so construed as to allow members pay per day for the time they may have been absent from this convention."

Mr. HALL. Some of our members have been prevented from attending here in consequence of sickness.

Mr. CLARK, of Alamakee. I have no desire to have my resolution affect any members who have been detained from here on account of sickness. I will, therefore, modify my resolution by adding to it the words, "except those absent on account of sickness."

Mr. WARREN moved to lay the resolution upon the table.

Upon this motion—

Mr. CLARK, of Alamakee, called for the yeas and nays, and they were accordingly ordered.

Mr. SKIFF. I ask to be excused from voting, as I am somewhat interested in this matter, having been absent from this convention about a week.

No objection being made, Mr. Skiff was excused from voting.

The question being then taken, by yeas and nays, upon the motion to lay the resolution upon the table, it was agreed to; yeas 18, nays 14, as follows:

Yeas—The President, Messrs. Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Johnston, Palmer, Patterson, Peters, Price, Robinson, Seely, Solomon, Traer, Warren and Winchester.

Nays—Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Gray, Harris, Hollingsworth, Marvin, Parvin, Todhunter and Young.

Returning Documents to the State.

Mr. CLARK, of Alamakee, offered the following preamble and resolution:

"WHEREAS, By resolutions of this convention each member thereof has been supplied with a copy each of Clarke's Iowa Reports, Code of

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Iowa, Cushing's Manual, Constitutions of the several States of this Union, and a map of Iowa, for the purpose of affording said members information necessary to qualify them to discharge their duties to the best advantage, in forming a constitution for this State;

"AND WHEREAS, Said object will have been attained at the final adjournment of this convention, and said books can be of no farther use to said members, after such adjournment; therefore,

"*Resolved*, That each member of said convention is hereby required to return to the Secretary of State, after said adjournment, the above named books, and take his receipt for the same."

Mr. TRAER. I move to amend the resolution so as to permit the gentleman from Alamakee [Mr. Clark,] to do so, if he pleases.

Mr GILLASPY. I would suggest that the resolution be so amended as not to include those members who have sold their reports.

Mr. CLARK, of Alamakee. I have no right to assume that any member has done so.

Mr. DAY. Each of us have had a very fine pen-knife furnished us by the State. We shall have no farther use for them, so far as the work of the State is concerned, after our adjournment. It might perhaps be well to amend the resolution so as to include our knives.

Mr. TODHUNTER moved to lay the resolution upon the table.

Mr. MARVIN. I desire to adjourn, at least sometime this week. Now I have always heard that there was but one step from the sublime to the ridiculous.

The PRESIDENT. The chair will observe to the gentleman from Jones, [Mr. Marvin,] that while he is always happy to hear him speak, the question now before the convention is not debatable.

Mr. CLARK, of Alamakee. I hope the gentleman will be allowed to go on. I have myself often heard that there was but one step from the sublime to the ridiculous, and I would like to have the gentleman state the position he occupies.

The PRESIDENT. The question is upon the motion to lay the resolution upon the table.

Upon this motion—

Mr. CLARK, of Alamakee, called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, upon the motion to lay the resolution upon the table, it was agreed to; yeas 25, nays 9, as follows:

Yeas—The President, Messrs. Ayres, Day, Edwards, Ells, Emerson, Gibson, Gower, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer and Warren.

Nays—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Gillaspy, Gray, Parvin, Winchester and Young.

Adjournment Sine Die.

Mr. TODHUNTER offered the following resolution:

"*Resolved*, That this convention rescind the resolution, adopted some days since, to adjourn on the fourth day of March, 1857, without day."

Mr. HALL moved to lay the resolution upon the table.

Mr. TODHUNTER. It is certainly distinctly understood, by every member here, that we cannot adjourn to-day, and we must, therefore, rescind this resolution.

Upon the motion to lay upon the table—

Mr. GRAY called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, upon the motion to lay the resolution upon the table, it was agreed to; yeas 18, nays 17, as follows:

Yeas—The President, Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, Solomon, Traer, Warren and Winchester.

Nays—Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Wilson and Young.

School Funds and School Lands.

On motion of Mr. HALL—

The convention then resumed the consideration of the article on "school funds and school lands."

Borrowing School Fund by the State.

The question was upon the following amendments, proposed by Mr. Solomon:

First. To strike out of section five the following words:

"And it shall be the duty of the general assembly as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university;" so that the section would then read:

"The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this state, for the use of a university, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant."

Second. To strike from section six the words, "and county;" so that the section would read:

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"The financial agents of the school funds shall be the same, that by law, receive and control the state revenue, for other civil purposes, under such regulations as may be provided by law."

Third; to strike out section seven, which reads:

"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the general assembly."

And insert in lieu thereof the following:

"For the purpose of erecting charitable institutions, and other public buildings of this state, the general assembly may provide by law for borrowing from the school and university fund, for a series of years, such sum or sums as they may deem necessary for such purpose, for which they shall annually pay to the school fund interest at the rate of —— per cent. per annum."

Mr. SOLOMON. I have but a few remarks to offer, in explanation of this proposition. I do hope this principle will be incorporated into the constitution, in some shape or other. We are told by those who have the means of knowing, that the school fund which has been entrusted to this state, for the benefit of the children of Iowa, is surely disappearing, in consequence of some difficulty or derangement in the present system of managing that fund. And I, for one, feel that we will not have discharged our duties as members of this convention, unless we shall provide some system for the management and preservation of that fund, different from the one we now have. I propose this plan, after consultation with some of the members, from the fact that I believe it will preserve the fund better than any other plan proposed, and at the same time enable the state, as a state, to profit by the use of that fund.

I desire to state here, at the beginning of my remarks, that I am informed by one of the state officers, who has the money belonging to this fund in custody, that there is now about a hundred and eighty-five thousand dollars of the school fund in his possession, which will soom be distributed by him, according to the laws of the state. I also learned, in conversation with him, that if any decided action was taken by this convention, which would indicate a change in the manner of disposing of this fund, he would perhaps delay the distribution of it.

I propose by this amendment to loan this fund directly to the state of Iowa, for a series of years, to be used for certain purposes, at a given rate of interest. I think we can make no other disposition of this fund, which will have a tendency to secure and preserve it, better than to loan it to the state of Iowa, and let the state become indebted to the school fund for that amount, and let the interest, be it what it may, be paid annually to that fund, and when paid be distributed among the several districts of the state for the support of schools.

The reason for placing this fund in the hands of the state is this: we are, at present, a young state, just setting out, as it were, as a state. We have recently decided upon the removal of our state capitol from this place to Fort Des Moines. We have before us the erection of certain public buildings, charitable institutions, the capitol and other buildings, which will cost a large amount of money. We have a provision in this constitution, already passed upon by this body, declaring that this state shall not create an indebtedness of over two hundred and fifty thousand dollars. That was established and incorporated into the constitution, upon a good principle, that debts should not be created by taxation upon the people, because, being so young a state, we were not, at the present, in a condition to have the people taxed to any considerable extent.

Now the proposition I have here submitted, if it be adopted, will enable us to erect all these public buildings that we must provide for, enable us to build fine, large and commodious buildings, such as will be an honor to the state for the present, and for all future time, and will place the burden of these buildings upon the future tax payers of the state. This is the reason, to state it in one word, why I offer this proposition.

It is notorious that this school fund, which was given to us as trustee to protect and use it profitably, was intended by the donors to be a means of preserving and strengthening the morals and virtue of the community. But while that object is known, it is equally notorious to the people that, instead of subserving that purpose, this school fund has become a means of corruption with office seekers, rather a corruption fund than anything else. It is only to remove it beyond the reach of any such dangers as that, that I propose to loan it to the state.

The school fund, at present, is distributed throughout the various counties of this state. And gentlemen will no doubt oppose my proposition, from the fact that it will require the collection of this fund from the several counties, and placing it in the hands of the state officers for that purpose. I am opposed to the present disposition of our school fund, from the fact that it inaugurates and maintains in our state a system, which enables corrupt office-holders and others to carry out their own personal aggrandizement, in the way in which they loan out this money. The public at large derive no benefit from this fund; and not only that, but the public at large have no exact information concerning the precise condition of this fund at the present time. And not only are the public at large deprived of this information, but I undertake to say—for I have tried it—that no man can get at a knowledge of the present condition of the school fund in this state, so loose is the system that has been pursued in its management.

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Now if past legislatures have permitted this fund to get into its present condition, I think that it is high time for us, who are here to frame our fundamental law, to say to the legislature what shall be done with this fund.

I have been a resident of one of our neighboring states for some time. And I can recollect when the state of Illinois had a magnificent school fund, as much so as the state of Iowa now has, and it was derived from the same source as our school fund. And I have been informed by gentlemen from Illinois, acquainted with the matter, that at the present time there is really no school fund at all there now; it has been all lost through the negligence and mismanagement of the officers having charge of it. I may be answered that we have provided in this constitution that such loans in this state shall be made up by the state. That is an additional reason why the state should have the care of this fund, if it is to be responsible for losses to it.

It will doubtless be said that it will be a great hardship upon the people of this state to draw in this fund at the present time. I do not think so. It can be no hardship upon a man who has borrowed from the school fund upon a mortgage, and agreed to pay a certain rate of interest, and the principal at a certain fixed time, which is the only way these loans can be legally made—it can be no hardship upon that man, to draw in this fund, at that time, as I have proposed here.

I have another reason for offering this proposition, which I will state to those gentlemen who take the position that the people should not have this fund withdrawn from among them at the present time. I desire those gentlemen to consider one feature of this subject. This fund is not now equally distributed throughout the state of Iowa. I have been informed, and I believe it to be true, that the sum of one hundred and seventeen thousand dollars of this fund is, at this time, in one county of this state. This affords that county a great advantage, if there is any advantage at all in it. This taking this public fund and loaning it out among favorites, or placing it in the hands of a few, is, I think, a wrong disposition of it. I would ask the gentleman from Alamakee, [Mr. Clark,] if that is the amount of this fund that is now in his county?

Mr. CLARK, of Alamakee. My impression is that it is about one hundred thousand dollars.

Mr. SOLOMON. I have been informed that it is one hundred and seventeen thousand dollars.

Now I want this fund drawn in gradually, and loaned to the state to use in the way I have indicated, the state to be made responsible for it.

And I want to say here that I have not offered this proposition to supersede the minority report of my friend from Des Moines [Mr. Hall] upon this subject. He and I talked this question over before he submitted that report, and I agreed with him in his report, with the exception of taking the balance of the fund and investing it in United States or state stocks. I do not like that feature of the minority report, though I would go for that even, before I would consent to let the fund remain where it is.

I hope my proposition will meet with the favor which I think it deserves, but which I am fearful it will not receive from the fact that it proposes to draw this fund from the constituents of members upon this floor.

Mr. WILSON. I hope this amendment will not be adopted. I am astonished that it should find favor at the hands of some gentlemen who voted for the lowest sum, in the article upon state debts, as the limit of state indebtedness. This is simply a scheme to increase the amount that the state may go into debt, to the entire amount of the school fund; and the only object I can perceive for doing this, is to place in the hands of the state this school fund to build a capitol at Fort Des Moines, and the various charitable institutions of the state. Now I am opposed to that. I am opposed to placing the school fund of this state in any such condition. I am satisfied that if this convention should go to work now and prepare and adopt a scheme by which to withdraw this school fund from the several counties of the state, it would be the greatest load that we could place upon this constitution. I do not see why the legislature cannot take charge of this matter. There is nothing to prevent the legislature from pursuing the course here proposed, except that if they propose to make a debt to exceed the sum of two hundred and fifty thousand dollars, they must submit the question to the people.

Mr. GILLASPY. I am opposed both to the minority report and the amendment of the gentleman from Mills [Mr. Solomon.] I understand from that gentleman that there is now in the hands of the state treasurer, ready for distribution among the several counties of the state, the sum of one hundred and eighty thousand dollars, and that if there is any action taken by this convention concerning the disposition of our school fund, he will hold on to this amount until August next. I can only say that I would myself be very glad to have this fund to speculate upon till that time.

I move to lay the minority report and this amendment upon the table.

The PRESIDENT. The minority report is not before the convention, and is entitled to no more consideration, and has no higher dignity than an amendment submitted by an individual member.

Mr. HARRIS. What would be the effect of the motion to lay the report and amendment upon the table? Would it carry the whole report and amendments with it?

The PRESIDENT. It would.

Mr. GILLASPY. I understood that we were considering the report upon school lands, introduced by the gentleman from Lee, [Mr. Johnston.]

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The PRESIDENT. We are now considering the article upon school funds and school lands.

Mr. GILLASPY. I move to lay the amendment offered by the gentleman from Mills, [Mr. Solomon] upon the table.

The question was taken, and the motion was agreed to.

Mr. HALL. I have a proposition which I desire to submit, but I do not desire to create defate. I desire to leave the question in relation to the disposition of the school funds to be voted upon by the people. If gentlemen have any serious opposition to it, I will not insist upon it. I hope, however the convention will agree to receive it, as it is simply a proposition to be submitted to the people.

Mr. SKIFF. I wish to ask the gentleman from Des Moines, [Mr. Hall] if he would not as soon take up now some of the first articles of the constitution and pass them to a third reading.

Mr. HALL. I do not think that there will be any discussion upon the proposition which I desire to submit.

Mr. WILSON. I shall oppose it.

Mr. HALL. I might have known that. (Laughter.)

Mr. CLARKE, of Johnson. I feel satisfied that there is a feeling existing in this convention which is utterly unfitting us to do our duty. While I am in favor of the proposition of the gentleman from Des Moines, [Mr. Hall], I do not wish to be compelled to vote upon it until I can read it. Most of the duty which the convention has to do now, is to examine all the articles accurately, and correct any inaccuracies there may be in them. I think we had better rescind the resolution for adjournment, and go to work. We have wasted time enough, and there has been enough bad feeling exhibited here already. Let us forget all this and go to work.

The PRESIDENT. The question is now upon ordering the article on school funds and school lands to a third reading, and referring it to the committee on revision, engrossment and enrollment.

Mr. HALL. I move that that be agreed to.

The question being taken, the motion was agreed to, and the article referred accordingly.

Mr. SKIFF. I move that we take up the article on the preamble and bill of rights, and read it the third time.

The PRESIDENT. The Chair would remark that the article on schedule is ready for a second reading.

Mr. SKIFF. My object in taking up some of the first articles of the constitution is that they may go to the engrossing clerk.

The PRESIDENT. The Chair was under the impression that the report of the committee on engrossment and enrollment was not yet made.

Mr. CLARKE, of Henry. It has not yet been made.

Mr. SKIFF. I move that they be required to report.

Schedule.

Mr. PARVIN. I move that we take up the report of the committee on schedule.

The question was taken, and the motion was agreed to.

The report of the committee on the schedule was then read by sections for amendment.

Laws of the State.

Section one was then read as follows:

"This constitution shall be the supreme law of the State, and any law inconsistent therewith, shall be void. The General Assembly shall pass all laws necessary to carry this constitution into effect."

No amendment was offered to this section.

Section two was then read as follows:

"All laws now in force and not inconsistent with the constitution, shall remain in force until they shall expire or be repealed."

No amendment was offered to this section.

Business pending in Courts.

Section three was then read as follows:

"All indictments, prosecutions, suits, pleas, plaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as now provided by law."

Mr. HALL. I desire to offer an amendment to that section, which I think is a desirable one:

"And all offenses, misdemeanors, and crimes, that may have been committed before the taking effect of this constitution, shall be subject to indictment, and trial, and punishment, in the same manner as they would have been had not this constitution been made."

Mr. WILSON. I wish to make a suggestion. I believe there is a section in this constitution which provides that certain minor offenses shall be tried without indictment, whereas the courts now hold under the present law that parties may be indicted for these offenses by the grand jury. I would suggest to the gentleman that he say, "except as herein provided."

Mr. HALL. The question has been already decided by the supreme court, and the provision which I offer is made with direct reference to the law as now declared.

The question was taken and the amendment was agreed to.

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No other amendment was offered to the third section.

Fines, Penalties, and Forfeitures.

Section four was then read as follows:

"All fines, penalties, or forfeitures due, or to become due, or accruing to the State, or to any county therein, or to the school fund, shall inure to the State, county, or school fund, in the manner prescribed by law."

There being no amendments offered to this section—

Bonds to remain in force.

Section five was then read as follows:

"All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned."

No amendment was offered to this section.

First Election under this Constitution.

Section six was then read as follows:

"The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the Governor and Lieutenant Governor. There shall also be elected at such election, the successors of such State Senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the House of Representatives, who shall be elected in accordance with the act of apportionment, enacted by the seventh General Assembly of the State."

Mr. SKIFF. I wish to offer an amendment to that section. Before the word "governor," I move to insert "judges of the supreme court."

I wish to have the judges of the supreme court elected next October. The reason I have for offering this amendment I will explain briefly. I understand that the people of the state require a provision in the new constitution, that judges may be elected by the people; and I desire to give them, by the amendment I have offered, an opportunity to elect them at the very first election after this constitution goes into effect. Perhaps we should not get any better judges than we now have. I am perfectly willing to re-elect them.

Mr. GOWER. I think they were elected for six years. They have had a bad bargain with respect to salaries thus far, and I think we should not provide for turning them out now, when we have just increased their compensation.

Mr. WILSON. I cannot think that the people of this state, or the members of this convention, would put out of office the judges of the supreme court. It is well known that the men who now occupy that position, accepted the offices to which they were elected at the risk of losing a lucrative practice at the bar, and at a great sacrifice on their part. It does not seem to me that the people expect we will throw these men out of their positions after they have been compelled to make a great sacrifice to accept them. I hope, therefore, that the motion of the gentleman from Jasper, [Mr. Skiff,] will not prevail.

Mr. SKIFF. The supreme court judges are retained in office longer than other officers. If there should be any distinction made at all, in this matter, they should go out first. These judges have taken office just the same as we all would take office. In case a revolution in government takes place we all lose our places. They take their position upon the supreme court bench with the same understanding. If they were eminent lawyers, and had a fine practice before they went upon the bench, they can resume it as soon as they leave it, and make more money than by remaining upon the bench. If they consent to a re-election I have no doubt that they can be re-elected—if their party happens to be the winning party. I do not consider that these judges will lose anything by the adoption of this propositon. I do not see any justice or propriety in continuing them in office until 1859. One of the principle reasons urged for calling the convention together, was to give the election of these judges to the people, and not make them dependent upon the legislature, mere creatures of that body. I am for giving the election of these officers to the people, and that as soon as we can. I desire to see some consistency in this matter, and I hope the amendment will prevail.

The question was then taken, by yeas and nays, upon the amendment, and it was not agreed to; yeas 15, nays 18, as follows:

Yeas—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson, Skiff and Solomon.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Todhunter, Traer, Wilson, Winchester and Young.

Mr. PALMER. I move to strike out the words "Lieutenant Governor."

This section and the subsequent one seem to make a distinction as to the senators and representatives, with regard to the length of their offices. I do not wish to make any such distinction. I desire to amend this and the subsequent section, so as to make the members of the present legislature go out of office at once. I do not know but I would vote to retain them all as they are at present, at least for another session. I do not see any necessity for making any distinction between them. This section makes a distinction between a portion of the senators and rules out members of the house.

The question was then taken, by yeas and

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nays, upon the amendment, and it was not agreed to; yeas 14, nays 20, as follows:

Yeas—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson and Solomon.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

No other amendments were offered to this section.

Election of Members of Congress, &c.

Section seven was then read as follows:

"The first election for Secretary, Auditor, and Treasurer of State, Attorney General, District Attorneys, members of Congress, and such state officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the Superintendent of Public Instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight."

Mr. HARRIS. I desire to offer an amendment to come in at the end of this section. I apprehend that there will be no objection on the part of the convention to it, as I presume gentlemen will not see any party move in it. I desire to offer simply a provision for an election that ought to come off in our judicial districts. This was one of the reasons that induced me to favor the proposition of re-districting the state, but I see that is not to be done.

The amendment which I desire to offer is, to prevent a special session. The term of our Judge expires in 1858. By the provision made here, it is provided that the district judges, and other officers who were elected at the April election in 1857, shall be elected again in 1858. The amendment which I desire to offer is this:

"Provided, that the term for which any district judge, or other state or county officer, elected at the April election in 1858, shall not extend beyond the time fixed for filling like offices at the October election, in 1858."

Mr. WILSON. I do not know that there can be any particular objection urged to the amendment of the gentleman from Appanoose [Mr. Harris]. It simply provides that such judges as may be elected at the April election in 1858, shall hold on until the next October, when all the terms of office shall commence at the same time, and continue on regularly.

Mr. CLARKE, of Johnson. It seems to me that the eleventh section covers the object desired by the gentleman from Appanoose [Mr. Harris]. If the judge from the gentleman's district is elected prior to the taking effect of this constitution, he would hold on to his term of office under the eleventh section.

Mr. WILSON. The election would take place in April, 1858, and that would be after the taking effect of this constitution.

The question was then taken upon the amendment offered by Mr. Harris, and it was not agreed to.

No other amendment was offered to the seventh section.

Election of Supreme Judges, &c.

The eighth section was then read as follows:

"The first election for Judges of the Supreme Court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine."

Mr. HALL. I wish to offer a substitute for the sixth, seventh and eighth sections.

I would prefer, if it were practicable, to have the election of these officers come off in 1857; but it is desirable to have our general elections come on even years, and at the same time that we elect members of congress. We elect members of congress upon the even year in order to have them elected at one time. I think it is desirable to have as few general elections as we can; once in two years is often enough. This brings our general elections on the same year with the presidential election.

The sections for which I propose a substitute, propose to keep the old constitution alive for certain purposes, and we thus have two constitutions, one of which is rejected by the people, for about two years. I do not believe this is right, and I do not believe gentlemen can put their hands upon their hearts and say that they could go for any such measure.

I want to show how this schedule will operate. One of these sections provides that the governor, lieutenant governor, and a portion of the state senators, shall be elected in October, 1857. After this constitution is adopted and becomes the supreme law of the state, you provide by another section for the election of members of the house of representatives, under a law entirely different from the one in the constitution. You will not let this constitution govern the election in that case, but you take the law of the last legislature and supersede the constitution which we have adopted here. This is what these three sections of the schedule do in 1857.

Then it lays down another rule; they say that the attorney, district attorney, and other state officers shall be elected in 1858, and here we have another portion of this constitution in force. You have both the old and new constitutions in force by this schedule till 1859. Then you allow the supreme court judges to be elected, although it has been decided more than two years before, that they shall be elected by the people under this constitution, that is, according to this schedule. After the people have adopt-

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ed the constitution, you dole out, in the schedule, the election of these officers, by piece-meal, and keep a portion of the old constitution for one purpose, and the new constitution for another.

The proposition I make is to put off these elections for a good length of time, then bring the new constitution into effect at once, organize under it, and let our general elections go on biennially upon even years. The first session of the legislature is held in 1857. They apportion the members, a part of which are elected under the old law, and not under this constitution at all. It does not allow them to be elected under it, and it will not allow the people to have the benefit of the constitution, which they themselves have adopted, but requires these members to be elected under a law passed by the general assembly. After they district the state in 1857, then they have the elections for the judicial districts. I say that this is all wrong, and there is no necessity for adopting such a system. I will postpone, as long as it is necessary, the carrying of this constitution into effect, but I want it to become the supreme law of the land as soon as possible, and all at once.

I should be very glad to know why the first election under this constitution should be an election representing the last legislature, for I do say here that the apportionment under which this first election is so specially provided for, being totally different from the manner of districting the state provided for in the constitution, is one of the most outrageous laws I ever heard of. It is an apportionment which enables twenty thousand minority of the people of this state to control the government. Facts and figures will clearly demonstrate the truth of this statement. Why then adhere to so unjust a system as this? Why not adopt the more just method of apportioning the state, and allowing the elections held under it, to be under the provisions of the constitution? There is no difficulty under the mode of districting the state, for it is done in such a way that every body knows the number of senators and representatives the counties will have.

I am perfectly willing that the present legislature, if we cannot do any better, shall meet and district the State under the constitution for the general election which comes off in 1858. But I am not willing that they shall make the judicial districts in the constitution. I do not want to piece-meal out the constitution for the purpose of keeping some favorites in power. I am sure that gentlemen cannot be serious in the position they take. If the people want the judges, who are now in office, they have the power to put them there. If they do not want them there, why should we force them upon them?

There is no necessity for making provision for these men. They should not be favored by this constitution, any more than any other class of citizens, and should bear no higher relation than any other gentlemen upon this floor, or any other citizens of the State. Why should this especial favoritism be doled out here? It is nothing more or less than favoritism, and I insist that we shall do away with it, and that we shall look to the great purpose of making the fundamental law of the State.

I am not disposed to detain the convention in discussing this matter, but I ask them to consider if there is any thing wrong or unfair in the proposition I now submit. I do not believe in fettering and entangling the constitution in the manner in which this schedule contemplates. I submit the following substitute, for the sections I have moved to strike out:

"Sec. 6. The first election under this constitution shall be on the second Tuesday in October, 1858; at which election the electors of the State shall elect the Governor, Lieutenant Governor, Secretary, Auditor, and Treasurer of State; Members of Congress, the Judges of the Supreme Court and District Courts, Attorney General, District Attorneys, members of the Senate and House of Representatives, and members of the Board of Education. The Senators elected shall be classified as required under the present constitution.

"Sec. 7. All officers under the present constitution, and those who may be elected prior to the election in October, 1858, shall hold their offices until their successors are elected and qualified under this constitution.

"Sec. 8. All elections authorized under the constitution now in force, shall be held under the present constitution until the second Tuesday of October, 1858."

The question was then taken, by yeas and nays, upon the substitute offered by Mr. Hall, and it was not agreed to; yeas 14, nays 21, as follows:

Yeas—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price, Robinson and Solomon.

Nays—The President, Messrs. Bunker, Clark, of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

No other amendment was offered to the eighth section.

First Session of the General Assembly.

Section nine was then read as follows:

"The first regular session of the General Assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year."

No amendment was offered to this section.

Term of Senators now Elected.

Section ten was then read as follows:

"Senators elected at the August election, in the year one thousand eight hundred and fifty-

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six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law."

No amendment was offered to this section.

Term of Present Officers.

Section eleven was then read as follows:

"Every person elected by popular vote, by vote of the General Assembly, or who may hold office by executive appointment, which office is continued by this Constitution, and every person who shall be so elected or appointed, to any such office, before the taking effect of this Constitution, (except as in this Constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed, shall expire; Provided, That no such person shall continue in office after the taking effect of this Constitution, for a longer period than the term of such office, in this Constitution prescribed."

No amendment was offered to this section.

Oath of Office.

Section twelve was then read as follows:

"On the taking effect of this Constitution, all officers thereby continued in office, shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this Constitution."

Mr. HALL. I move to strike out this section.

The question was then taken, and the motion of Mr. Hall was agreed to, upon a division; ayes 14, noes 14.

Judicial Districts, &c.

Section thirteen was then read.

"The General Assembly, at the first session under this Constitution, shall district the State into eleven Judicial Districts, for District Court purposes; and shall also provide for the apportionment of the members of the House of Representatives, in accordance with the provision of this Constitution."

Mr. WINCHESTER. I move to amend this section by inserting between the word "representative," and the word "in," the words "and the Senate;" so that the section would then read—

"The General Assembly, at the first session under this Constitution, shall district the State into eleven Judicial Districts for District Court purposes; and shall also provide for the apportionment of the members of the House of Representatives, and of the Senate, in accordance with the provisions of this Constitution."

There is no provision made here for the apportionment of senators at the next term of the general assembly. It should be done, by all means, in justice to the new counties.

Mr. CLARK, of Alamakee. I would suggest to the gentleman from Hardin, [Mr. Winchester,] that he say "general assembly," instead of the senate and house of representatives."

Mr. WINCHESTER. I accept the amendment.

Mr. WILSON. I am not able to speak authoritatively, but I understand from the chairman of the committee on the legislative department, that the object, which the gentleman from Hardin, [Mr. Winchester,] seeks to accomplish, is provided for in the article on the legislative department.

The question was taken, and the amendment offered by Mr. Winchester was agreed to.

Election of the Board of Education.

Mr. HALL. I move to insert as section fourteen the following:

"Sec. 14. The board of education shall be elected upon the second Tuesday of October, 1858."

That is as soon as they can be elected under this schedule.

Mr. SKIFF. I will state to the gentleman that that is the amendment which I intended to propose to section seven, which would save one section.

Mr. HALL withdrew his amendment.

Vote on this Constitution.

The fourteenth section was read, as follows:

"The foregoing constitution shall be submitted to the electors of the state at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, 'new constitution—yes.' Those against the constitution, 'new constitution—no.' The election shall be conducted in the same manner as the general elections of the state, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for the canvass of state officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the state of Iowa, and shall take effect from and after the publication of said proclamation."

Mr. WINCHESTER. I move to amend this section by striking out, in the same, in two

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places, the word 'new,' and inserting 'revised.' I confess that the instrument has the appearance of a new constitution; but the law calling this convention together does not contemplate the formation of a new constitution, but simply that we should revise the old constitution. I think that this word would appear to come in conflict with the law which called us togteher, and that 'revised' would appear to be more consistent with that law.

The motion was rejected, upon a division; ayes 7, nays 11.

No further amendment was offered to this section.

Mr. CLARKE, of Henry, inquired whether it would be proper to add to this article the new resolution with regard to the right of suffrage.

Mr. WILSON. I think that can be inserted by the committee on revision without any necessity of any further action upon it in the convention.

Mr. CLARKE, of Henry. Very well; that is sufficient.

Mr. SKIFF moved to insert in section seven, after the word "judges," the words "member of the board of education," so as to require their first election so take place on the second Tuesday of October, 1858, the time of the first election under the constitution.

The motion was agreed to.

Division of Lee County.

Mr. JOHNSTON. Before I came to this convention, and during its session, I have had frequent applications from the citizens of Lee county to procure a change of the constitution with regard to the size of counties, and the reduction and division of counties, and urging that some provision should be made upon that subject in the constitution. But I have found, upon conversing with members of the convention, that there is a decided opposition to it. In order to meet the views of both parties, so far as possible, I now offer as an additional section, a proposition entirely local in its character, and agreed to by my colleague from the lower end of the county, [Mr. Patterson.]

"Whenever a portion of the citizens of Lee county deem it expedient to procure a division of said county, it shall be the duty of the general assembly to make a law by which the proposal to divide said county (the metes and bounds of the proposed new county being set forth in said law) shall be submitted to the voters of the county of Lee at a general or special election; and the general assembly shall prescribe in said law the mode for the proper organization of said new county, and they shall be organized under said law, provided a majority of the votes given on the question of division at said election shall be in favor of said proposed division."

I will say to gentlemen of the convention that they will find in the constitution of several of the states provisions similar to this annexed to their schedules. I am anxious that this should be adopted in order that the people may have an opportunity to test this question if they desire to do so. I desire to say that I am opposed to the division of the county, but I desire that those who are in favor of it should have an opportunity to vote upon the subject.

Mr. PARVIN. We are asked here by a distinct proposition to do in relation to Lee county something contradictory to what we have done in relation to other counties, for we have provided that no organized county shall contain less than four hundred and thirty two square miles.

Mr. JOHNSTON. This provision would qualify that article so far as Lee county is concerned. I have found it impossible to procure a general provision, and therefore ask that that provision may be qualified so far as Lee county is concerned.

Mr. WILSON. Will the gentleman allow me to make the inquiry, what is the feeling of the people of Lee county upon this subject?

Mr. JOHNSTON. I do not know. So far as my feeling is concerned, I am opposed to the division, but a large number of persons in the northern part of the county, and many persons in the southern part of the county, desire something of this kind. I am rather disposed to think that the proposition would be voted down by the people.

Mr. WILSON. I should be unwilling to array that county against the constitution by introducing a local provision which would induce any one there to vote against it.

Mr. EDWARDS. It makes no difference to us what may be the desire of the people of Lee county in regard to a division. That appears to me entirely foreign to the question. I see no objection in the world to allowing them to vote upon it.

Mr. PATTERSON. Before the vote is taken, I wish to state here, in order to satisfy the gentleman from Jefferson, [Mr. Wilson] that I apprehend that the introduction of this provision into the constitution will create no opposition to it upon the part of the citizens of Lee county. This question has been a good deal agitated there; and some weeks ago, my colleague [Mr. Johnston] and myself wrote down to different parts of the county in relation to it. I have received no communication from any of my constituents in relation to that subject; but we concluded that we would endeavor to have this provision put into the constitution if the convention would agree to it. To define my own position, I am opposed to the division of the county. I wrote to eight or ten citizens of my own town, Keokuk; but as I stated, have received no reply. How they feel upon the question of division at present, I cannot tell; but I think the adoption of this provision in the constitution will satisfy all parts of the county.

Mr. GILLASPY. I will state that during the last fall, at the time of the election of members

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to this convention, I was in the city of Burlington, and in Fort Madison; and I saw Daniel F. Miller who insisted that the people desired a proposition of this kind in the constitution, that they might have an opportunity to vote upon the question at all events. I am in favor of it, for I have no doubt that some of the people there, if not all, desire it. It has been done in other new states.

Mr. CLARKE, of Henry. If I really supposed that a large majority of the citizens of Lee county, which we all know is a very large and populous county, wished an exception made in their favor, I should be disposed to grant it; but finding their two representatives both opposed to the division, not knowing the feeling of the people of the county, but knowing as I do that there are those agitating the question of division, the gentleman just mentioned Mr. Miller, being one of them, I fear that it will create a question there which has been an obstacle in their way heretofore. If the very respectable portion of the people of that county lying upon the north, wish to be cut off, we are willing to take a portion of them into Henry county, and I presume Des Moines would be willing to take a portion—in that way, leaving the constitution as it is. Lee county can be relieved of some of its surplus population, and area if they wish. I am aware there is a local feeling down there; and I am afraid we shall be breaking into an old sore, and array votes against the constitution, if we put this provision into it.

Mr. HALL. I have a very considerable acquaintance in Lee county; almost as much as in the county in which I reside. I know a large number of the citizens there are anxious that there should be such a proposition as this. They do not want it just at this moment, but say that it will be necessary hereafter to divide the county, and many of them are ready and anxious for it now. They have good reasons for it, particularly the people of the agricultural and northern portions of the county. I hope that gentlemen will allow this measure to be incorporated into the constitution; so that they may have this division, when they think proper to vote for it. This is a large county, having a diversity of interests. A large city is building up in the southern part of the county, and thus a very heavy pauper tax is thrown upon the northern part of the county which furnishes none of these persons to be supported. I think that they would prefer that those manufacturing the paupers should pay the expense of maintaining them. I think it would be just and proper to put the amendment in; for although at the first vote, the majority might vote against the division, I presume that in a very short time, they will be in favor of it.

Upon the amendment—

Mr. CLARKE, of Henry, called for the yeas and nays, which were ordered.

The question being taken, the result was yeas 29, nays 5—as follows:

Yeas—Messrs. Ayres, Bunker, Clarke of Alamakee, Clarke of Johnson, Day, Edwards, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Peters, Price, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Winchester and Young.

Nays—The President, Messrs. Clarke of Henry, Ells, Marvin and Wilson.

Mr. BUNKER, when his name was called, said: I really do not know how to vote. I recollect that there has been a good deal of difficulty in Lee county about this for several years past. I do not know what effect the amendment will have; but I think it probable that they desire it. I will vote 'aye.'

Mr. DAY, when his name was called; said: I do not know the wishes of the people of that county in regard to this matter, and shall be as likely to vote wrong as right. I ask to be excused from voting.

Not being excused, Mr. Day voted 'aye.'

Mr. GOWER, when his name was called, said: I wish to inquire whether this amendment provides that the question is to be submitted to the people, or whether it leaves it to the legislature, so that the people may wake up some morning and find themselves in another county.

Mr. JOHNSTON. The question is submitted to the people.

Mr. GOWER. Then I will vote 'aye.'

Mr. TRAER, when his name was called, said: I desire to say that I know nothing about this matter. I will vote for it to accommodate my friends from Lee county. I will vote 'aye.'

Mr. WILSON, when his name was called, said: I am in the same situation with other gentlemen, totally undetermined how I ought to vote; but inasmuch as my vote will not change the result, I will vote 'no.'

Mr. ELLS, when his name was called, said: I will ask my friend from Des Moines if there is any prospect in case of a division of Lee county, of either portion becoming republican; for if so I will vote for it.

Mr. HALL. I am afraid the gentleman will have to vote, 'no,' then.

Mr. ELLS. I will vote 'no.' [Laughter.]

The amendment was agreed to.

Mills County.

Mr. SOLOMON. I wish to propose an amendment with regard to my own county. The county of Mills is now in no judicial district. By the act of the legislature providing for the time of the holding of the courts, the time of holding the court in Mills county, is fixed the same as the time allotted to the sixth judicial district; but Mills county was not placed in that district. It was evidently intended to be placed there. There can be no provision made by the legislature until next winter. There can be no court in Mills county this spring; nor in the

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fall unless it is placed in the sixth judicial district. I therefore move to add to the schedule the following amendment:

"Sec. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of the state."

I would myself prefer to have it in the seventh district; but it is evidently the intention that it shall be in the sixth; and I want to have the court held.

The amendment was agreed to.

On motion of Mr. SKIFF,

The article was referred to the committee on revision and ordered to a third reading.

School Fund.

Mr. TODHUNTER moved to take up the resolution rescinding the day of adjournment.

Mr. HALL. I wish the gentleman would withdraw that motion, and let us take up the resolution with regard to the school fund.

Mr. PRICE. That will require a suspension of the rules.

Mr. CLARKE, of Henry, moved that the rules be suspended, for that purpose.

Mr. HALL. This is the minority report, made yesterday, put in different form.

Mr. TODHUNTER withdrew his motion, and the rules were suspended.

The convention accordingly proceeded to consider the following resolution:

"*Resolved*, That at the same election that this constitution is voted for and against by the electors of this State, the following section, to be added to the article on school funds and school lands, be voted upon as a separate question, to wit:

"Sec. —. That the school and university funds that exists in choses in action, or that have been loaned out by any officer of this State, shall, when the same becomes due, be collected and paid into the Treasury of the State, and the General Assembly shall provide for the permanent investment of said fund, in United States or selected interest-paying State securities, bearing not less than six per cent. interest; and that no more of the school or university funds shall be loaned to individuals.

"The electors voting upon said section shall have written or printed upon their ballots—'Consolidation of the School Funds—Yes,' or 'Consolidation of the School Funds—No.' And if a majority of all the votes given shall be for 'Consolidation of the School Funds—Yes,' then the section aforesaid shall be a part of the constitution of this State; and if a majority of the votes shall be, 'Consolidation of the School Funds—No,' then said section shall not become a part of this constitution."

Mr. CLARKE, of Henry. I wish the gentleman from Des Moines [Mr. Hall] would so amend his proposition as to include the other feature of the report which he submitted.

Mr. HALL. I dislike to add anything which may embarrass this proposition. I believe that the addition of this will be sufficient to give the people an opportunity to act upon the subject; and I do not like to hazard that proposition by coupling with it a proposition to loan to the State. The people may consider that proposition as an encumbrance; and my sole object is to secure the fund. I believe that it is now running to waste rapidly. Every year we are losing what we can never regain. The people should be advised about it, and should rescue what is left. I do not wish to encumber that proposition with anything at all, and I have therefore forborne to add the proposition to loan to the State. I ask gentlemen to vote for this, as a method to enable the people themselves, if they think proper, to rescue the school fund from impending ruin.

Mr. TRAER. I would like to ask how the fund is to be consolidated?

Mr. HALL. The mode is prescribed in the section itself, which the gentleman will find in the printed report.

Mr. TRAER. I will move to strike out the words, "or so much thereof as is not required by the State to establish charitable institutions."

Mr. HALL. That has already been stricken out from the section as printed.

Mr. GOWER. If the people vote for the consolidation of the school fund, it at once becomes the duty of the General Assembly to provide for the permanent investment of the fund in United States or State stocks. Is it certain that it is good policy to compel them to put the entire fund into that form? I only suggest the question for consideration, whether it is desirable that the entire fund should be invested in that way.

Mr. MARVIN. I cannot vote for this, although it looks plausible upon the face of it.

Mr. HALL, (in his seat.) Let the people vote for it, then.

Mr. MARVIN. I know that the question is referred to the people; and it may hereafter be referred to the people by an amendment of the constitution, if it should prove to be wrong. This is the same fund, or portion of it, that the other States have had paid to them in money. I recollect that in several of the States having a similar fund, when either the whole or a portion of it has been given or loaned to the State, they have taken particular pains that it should be loaned out in the several counties of the different States, that the people of the State might be benefitted by it. Now, I learn that if this should be drawn in and consolidated, it will draw some four millions of dollars from the present circulation of the State, which must, especially if it should happen to occur at a time of pressure upon the money market, affect the

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people very seriously. We cannot draw four millions of dollars from the circulation of the different counties without seriously embarrassing the whole State. It is very possible that the majority of the electors of the State may vote for this inconsiderately, from the fact that the great majority are not directly interested in borrowing this money, and may not see how they are interested in their neighbors keeping it. It strikes me that the fund may be secure as it is. I do not think we are going to lose so much as some gentlemen seem to suppose. It has been whispered about that the fund is decreasing. But how long has it been since it was only a million of dollars?—and now it is four millions. The fund is increasing. There may be losses; but there should not be. They have probably arisen from the inexperience of officers in the new counties. I think the present system, under proper safeguards, will as effectually secure that fund in this State as in the older States.

Again, the interest is now ten per cent. If it is consolidated in United States stocks, or other state stocks, we should get but six per cent. I know that gentlemen will claim that the cost of collecting is something; but it is trifling compared with the difference of four per cent. We now have four millions at ten per cent., yielding four hundred thousand dollars annually. I think we should hesitate even to throw this before the people, until they have had full time, or at least more than they will have between this time and the first of August, to consider this question. I repeat, that the majority of the people are not directly interested, and may not feel that they are even remotely interested; but should the fund be withdrawn from the different counties, they would learn the extent of their interest from the general embarassment that must follow.

Mr. CLARKE, of Henry. I regret very much that the gentleman did not present his proposition in a different form. The very last proposition in the report, as I thought, was that of allowing the state of Iowa to be the debtor of the school fund, in using this school money. From the first this has always struck me favorably. I am not one of those to be terrified by bugbears. I attempt to look at things and see what they are; and the idea of a young growing state, increasing in wealth as Iowa is at this time, going into debt for her public buildings, or even for her annual governmental expenses, is no bugbear at all to me. Will gentlemen reflect one moment in regard to it. We who are occupying the field here to-day, who are paying the taxes for the support of the government, are now to go to all the expense of all the public buildings. If we resort to direct taxes, we alone are the ones to bear the burden. But if we contract a debt for the erection of these public buildings, they who are to come in hereafter and bring wealth into the state, will share with us the burden. Gentlemen take a wrong view of this when they think they are impoverishing the state by allowing it to contract any debt. We must during the next ten years, raise a million of dollars for our public buildings alone. This must be derived from some source, and from direct taxation, unless we resort to a loan. I do not care who makes the loan, but it would be better for us that the United States government, or any other state of the Union, should furnish the requisite amount to put up the public buildings, so that we could immediately have the benefit of it, even if we had to pay an extra interest upon the amount for the next ten years, and then to share the burden with those who shall then be here, to pay off the principal, than to go from year to year, dragging along for ten years, in the attempt to put up those buildings.

The gentleman has struck out the very best feature of the report, that which recommended it to my judgment. I certainly shall not vote for submitting such a resolution as that to the people. I would rather have the funds remain under the present system, than to adopt the plan in that section. That takes away the money from us, and carries it into other States. Illinois, Indiana, Ohio, borrow from us our school fund. Which do you suppose is the wiser of the two, we who lend the money that we need for our own use, or the State which borrows it of us? Certainly Illinois, Indiana, or Ohio, borrowing our school fund, occupy the most favorable position. They are those who are to gain by the transfer. Their borders, like ours, are filling up yearly. There is an accession of wealth, of property to be taxed, to pay off this debt; and in the mean time they have built their asylums, State houses, and other public buildings. We are doing the same thing when we buy their bonds as lending them the money. Their bonds are issued for this express purpose. And if they act wisely in issuing them, shall we suffer our State to lend them the money which we need ourselves for these very purposes? Is he a wise business man, who, having buildings to erect to carry on his business, which will render it more productive, suffers the work to be delayed from year to year while he can raise the amount by driblets; or he who at once effects a loan, puts up his building, goes on with his business, and from the profits of that very business discharges the debt? We want these buildings—a State house, asylums, &c. We can build them now, and tax ourselves for a few years merely with the interest; and then the taxable property of the State will be four times its nominal value this day. In ten years from this time, we shall have four times the amount of property to be taxed to pay off this debt. That is the question which I wish to have submitted to the people. The more it is discussed the more it will commend itself to the judgment of gentlemen here, and the people at large. The moment they look at it, they will see that it will be better for us all to pay merely the interest by a direct tax, rather than to pay the principal by a direct tax. And let me remark to the gentleman from Jones, [Mr. Marvin,] who feared that we should create dis-

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tress by taking this large amount from the pockets of the people, that we must raise at least three millions of dollars within five years to put up our public buildings, &c., if we do it by direct taxation.

Mr. MARVIN. I am prepared to meet that question when it properly comes before us; but it is not before us now.

Mr. CLARKE, of Henry. It is before us in this way. That money must come from the people; if not by borrowing from the school fund, then by direct taxation. If we borrow from the school fund, we have only to pay the interest, and only to tax the people to the extent of that interest. I think that if we borrowed this sum for the annual expenses of our government, it would be one of the wisest things we could do, to tax the people merely for the interest upon it for the next ten years, and to let the State become debtor to the school fund. Is it right that we should bear all the burdens, and that those coming into the State ten or twenty years hence should share the benefits with us, and not also take their share of the burdens?

Mr. TRAER. The gentleman from Henry supposes that we shall have to raise at least three millions of dollars in the next five years; and he proposes to take that from the school fund, as I understand him. Now if he will look at it a moment, he will see that even if we should agree to his plan, we could not get the money in that way. The money is loaned out, a large part of it for ten years; and it would be impossible to get that before the expiration of the time, even if the section favored by the gentleman should be adopted. I am by no means one of those who would run the State in debt to the extent of four millions of dollars, although it might be several years before the whole of that debt would be contracted. We have already provided that the State shall not go into debt over two hundred and fifty thousand dollars, without the people voting in favor of it. I say that if the people want to borrow the school fund, they can do so. Let the legislature pass a law to that effect, and if they vote in favor of borrowing the fund, they can do so as fast as it can be collected. I see no use in putting this into the constitution.

Upon this resolution—

Mr. HALL called for the yeas and nays, which were ordered.

The question being taken, by yeas and nays, the resolution was rejected; yeas 18, nays 20, as follows:

Yeas—Messrs. Ayres, Clarke of Johnson, Ells, Emerson, Gower, Hall, Johnston, Patterson, Peters, Robinson, Skiff, Traer and Warren.

Nays—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Edwards, Gibson, Gillaspy, Gray, Harris, Hollingsworth, Marvin, Palmer, Parvin, Price, Seely, Solomon, Todhunter, Wilson, Winchester and Young.

Mr. SOLOMON, when his name was called, said: If this was a proposition to collect the money, and to use it in accordance with my proposition, I should vote for it; but as it is, collecting the money, and loaning it out of the State, I vote "no."

Mailing the Debates.

Mr. CLARKE, of Johnson, from the committee appointed to superintend the printing of the debates, reported the following resolution:

"*Resolved*, That A. P. Luse & Co., be employed to put up and mail to each member of the convention ten copies of the daily slips of the debates, and that the postage upon the same be paid by them, and charged to the State."

The resolution was agreed to.

Mileage of Members.

By the direction of the PRESIDENT—

The Secretary read the number of miles for which each member claimed mileage, handed in under the resolution passed this morning, (that of Mr. Cotton being handed in by Mr. Ells, who had been authorized to do so,) as follows:

NAMES.	MILES.
Messrs. Ayres,	260
Bunker,	84
Clarke of Alamakee,	600
Clarke of Henry,	120
Clarke of Johnson,	0
Cotton,	200
Day,	328
Edwards,	280
Ells,	110
Emerson,	640
Gibson,	680
Gillaspy,	170
Gower,	32
Gray,	66
Hall,	400
Harris,	260
Hollingsworth,	200
Johnston,	260
Marvin,	136
Palmer,	200
Parvin,	72
Patterson,	320
Peters,	720
Price,	1000
Robinson,	400
Scott,	720
Seely,	360
Skiff,	180
Solomon,	600
Todhunter,	320
Traer,	100
Warren,	640
Wilson,	110
Winchester,	240
Young,	200
President,	66

On motion of Mr. JOHNSTON—

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The account was referred to the committee on expenditures.

Mr. MARVIN. I move that that be entered upon the journal, so that it shall be known and read of all men.

The PRESIDENT. There is no need of that. It becomes a part of the proceedings.

Distribution of the Debates

Mr. CLARK, of Alamakee. I voted, this forenoon, in favor of giving to our sergeant-at-arms the job of distributing the debates of this convention. I voted under some misapprehension, and I now move to reconsider that vote.

The motion to reconsider prevailed.

The question was then stated upon the resolution, which was read, as follows:

"*Resolved*, That S. C. Trowbridge be employed to distribute the debates of this convention, as provided for in the foregoing resolution; and that he be paid for such distribution the sum of five hundred dollars, and to be distributed as soon as ready."

Mr. CLARK, of Alamakee. I have no personal feelings upon this matter; but, upon reflection, and from some information I have obtained, I am inclined to make the motion that the name of Mr. Trowbridge be stricken out, and that of the secretary of state inserted in its place. I am informed that it is usual to give these jobs to the secretary of state. He has other books to distribute; it comes in his line; and he is a more proper person to do it than any other man. If there were no reasons why the secretary of state should have the preference, I should have no objections to giving it to Mr. Trowbridge.

Mr. TRAER. I wish to state that I have no personal feelings in this matter, whatever, both those gentlemen, the secretary of state and Mr. Trowbridge, being friends of mine. I shall, therefore, give my vote with sole reference to the facts in the case. In the first place, I do not believe that, because other parties employ the secretary of state, it follows, as a natural and necessary consequence, that he should have this. I do not think that rule will hold good in this case. In the next place, I am a little doubtful lest, if we leave this to the secretary of state, the books should not be distributed until the laws passed at the last session of the legislature shall be ready for distribution. He would probably retain these so as to distribute all together. I should object to that arrangement. What we want is, to get the books just as soon as possible, so that the people may understand what we have done here, that they may have sufficient information before them to enable them to judge rightly in voting for or against this constitution. I understand, further, that the laws of the last session of the legislature will not be ready for distribution before the first of July, leaving only one month before the time of taking the vote upon the constitution. I hold that that is wrong, that we should have these books published, if possible, by the first of May, and distributed immediately afterwards, in order that the people may know and understand what they are voting upon when the constitution comes before them for adoption. I understand that this was the reason which induced the committee to strike out the name of the secretary of state and insert that of Mr. Trowbridge.

With regard to the compensation I have nothing to say, whether it is too much or too little. But I will say this much; that if the job were offered to me at the price offered in that resolution, I should certainly refuse it. I do not think I could get the work properly done for any such price. I think it would be worth more money; at least, if a man must personally superintend it, and take the books into each county. I hope the convention will not reconsider. We have been voting and then reconsidering votes to-day. I want the convention to adhere to what they do, and show that they have some back-bone to them

Mr. SKIFF. I will state my object in seconding and favoring this motion. I believe that the gentleman from Benton is certainly mistaken in saying that the laws will not be ready for delivery before the first of July; for I understand that, instead of that, they will be ready for distribution by the first of May, which will be as early as these reports can be got ready. Then the secretary of the state will have to distribute the laws, and he will have facilities for making the distribution of these debates, which another person would not have. I think, therefore, that he can distribute them sooner than any other person. I have no personal feeling whatever with regard to it.

Upon the amendment—

Mr. TRAER called for the yeas and nays, which were ordered.

Mr. CLARKE, of Johnson. I will not attribute to the gentleman from Alamakee, [Mr. Clark,] any motive growing out of the action of the convention this morning, in making this motion; but if he labors under the impression that changing the person will at all affect me, I can assure him that he is mistaken. If he will remember, I presented the original resolution, and that was originally drawn up in favor of the secretary of state. Mr. Trowbridge was not selected by me at all. But the subject was referred to a special committee, who changed this resolution by striking out the name of the secretary of state and inserting that of the sergeant-at-arms of this body. The reasons which induced them to make the change were satisfactory, at the time, at least to the convention. Personally, I have no feeling in relation to it.

Mr. CLARK, of Alamakee. I do not know why the gentleman should intimate any motive upon my part aside from that which I stated. I voted for the resolution, as it stood this morning, because I had been told that the secretary of state did not want it. It was for that reason that I voted to take it away from him; and it is

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because I learn that that was not so, and that he feels a little hurt by the action of the committee in taking it away from him, that I have changed my position.

Mr. TODHUNTER. This resolution was offered by the gentleman from Johnson, [Mr. Clarke.] In the resolution, as offered, it was provided that the secretary of state should have the distribution of the debates. After some consideration the matter was referred to a special committee, consisting of Mr. Winchester, Mr. Hall and myself. Mr. Winchester not being here at the time, Mr. Hall and myself consulted about this matter, and we came to the conclusion in this resolution as it now stands. One reason why the matter was referred to the committee I understood to be that the secretary of state said that five hundred dollars was not enough; that it would not pay. We come to the conclusion that, inasmuch as the secretary of state talked about it in this way, and as there was a probability that he would not distribute the debates in time, that is, as soon as they were done—for we have the assurance that they will be done by the first of May; whereas, if they are distributed with the laws, we should not receive them until August, or perhaps later—it would be better to strike out the name of the secretary of state and insert that of Mr. Trowbridge; for Mr. Trowbridge, upon our consulting with him, gave us the assurance that he would distribute them as soon as they were done. That was our reason for the change.

I do not think there is any ground upon which any officer of the state can come in here and complain in regard to this matter. This convention is entirely free and independent of any other branch of the government. We have a right to employ whom we think proper. We need not ask the secretary of state, or any other outsider, with regard to this matter. I have no personal feeling in the matter. I am just as good a friend to the secretary as to Mr. Trowbridge. It makes no difference to me who distributes the debates, or who gets the job, if the work can be done promptly. Nor do I think five hundred dollars any too much to pay. But I think the convention has a right to choose whom they please to distribute their debates, and no man has a right to complain. We concluded to report the name of Mr. Trowbridge; and the convention agreed to it. For us now to change that again looks to me like boys' play.

The question being taken, by yeas and nays, the amendment was agreed to; yeas 18, nays 12, as follows:

Yeas—Messrs. Clark of Alamakee, Clarke of Henry, Day, Ells, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Patterson, Peters, Price, Seely, Skiff, Solomon, Warren and Young.

Nays—The President, Messrs. Ayres, Bunker, Clarke of Johnson, Emerson, Gower, Hollingsworth, Palmer, Robinson, Todhunter, Traer and Winchester.

So the amendment was agreed to, and the name of the secretary of state was inserted in the resolution.

Mr. MARVIN moved to to strike out 'five,' and insert 'three,' making the compensation three hundred dollars.

Mr. CLARKE, of Henry. The higher sum will be first in order; and I move to insert 'four,' making the compensation four hundred dollars.

The PRESIDENT stated the question first upon striking out 'five.'

The motion was agreed to; ayes 14, noes 5.

The question was then stated upon filling the blank with 'four.'

Mr. CLARKE, of Henry. I wish to vote intelligently; and I will ask the gentleman from Jackson, [Mr. Warren,] what he thinks would be the expense of distributing the reports?

Mr. WARREN. I am not able to say. I merely stated what I would do it for myself, and I withdraw that. I am satisfied that it should be five hundred dollars.

Mr. TODHUNTER. Before the blank is filled I wish to remind the convention that the gentleman from Alamakee, [Mr. Clark,] offered to do the job for two hundred and fifty dollars, and to give good security for the faithful performance of the contract. I propose that we give him the job.

Mr. CLARK, of Alamakee. When I make a proposition, if the other party are not wise enough to take it up at the time, but try to do better by going around and speculating with others, I consider myself at liberty afterwards to decline it.

Mr. TODHUNTER. I thought the gentleman would not stand by it.

The question being taken upon making the compensation four hundred dollars, it was agreed to.

The resolution, as amended, was then agreed to.

Distribution of the Journal.

Mr. CLARKE, of Henry. I now move to reconsider the vote upon the resolution, by which we give the secretary only two hundred and fifty dollars for indexing, superintending the printing, and distributing the journals and constitutions.

The motion was agreed to.

The resolution was read, as follows:

"6. *Resolved*, That T. J. Saunders, the Secretary of this convention, be employed to index, superintend the printing of, and distribute the journals and constitutions herein provided for; and that he be allowed the sum of three hundred and fifty dollars as a compensation in full for said services."

On motion of Mr. CLARKE of Henry,

The resolution was amended by increasing the compensation to five hundred dollars.

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The resolution, as amended, was then agreed to.

Mr. TODHUNTER moved that the convention take up from the table the resolution to rescind the day of adjournment.

The motion was rejected; ayes 9, noes 14.

Third reading of Articles.

Mr. SKIFF. I move that the article on the preamble and bill of rights be now taken up and read the third time.

The PRESIDENT. That article is not now before the convention.

Mr. SKIFF. I thought it had been reported from the committee on revision, as I see that it has been printed and laid upon the desks of members.

The PRESIDENT. The committee of revision have as yet made no report to the convention.

Mr. SKIFF. I would ask the chairman of that committee [Mr. Clarke], if the committee are ready to report?

Mr. CLARKE, of Henry. The committee have for some time been ready to report, whenever the convention were ready for it.

The PRESIDENT. There is no business now before the convention.

Preamble and Bill of Rights.

Mr. CLARKE, of Henry. I beg leave to report to the convention, from the committee of revision, a portion of the constitution, being the preamble and bill of rights, as follows:

CONSTITUTION OF THE STATE OF IOWA.

We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri—as established by the constitution of that State, adopted June 12th, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersect the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of the said Mississippi river to the place of beginning.

Article 1.—*Bill of Rights.*

Section 1. All men are, by nature, free and equal, and have certain inalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

Sec. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

Sec. 3. The General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates, for building or repairing places of worship, or the maintenance of any minister or ministry.

Sec. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

Sec. 5. Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall forever be disqualified from holding any office under the Constitution and laws of this State.

Sec. 6. All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

Sec. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions

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or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

Sec. 8. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Sec. 9. The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

Sec. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his own witnesses; and to have the assistance of counsel.

Sec. 11. All offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentment or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

Sec. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences where the proof is evident, or the presumption great.

Sec. 13. The writ of habeas corpus shall not be suspended, or refused, when application is made as required by law, unless in case of rebellion or invasion, the public safety may require it.

Sec. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and in time of war, no appropriation for a standing army shall be for a longer time than two years.

Sec. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

Sec. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

Sec. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

Sec. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be paid, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

Sec. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

Sec. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

Sec. 21. No bill of attainder, ex-post-facto law, or law impairing the obligation of contracts, shall ever be passed.

Sec. 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property, as native-born citizens.

Sec. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

Sec. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

Sec. 25. This enumeration of rights shall not be construed to impair or deny others, retained by the people."

Mr. TRAER. I would call the attention of the convention to the third section, which reads, "the general assembly shall make no law respecting *an* establishment of religion, &c." I think the language used is not exactly correct. It appears to me that it would be better to have it read "*the* establishment of religion," instead of "*an* establishment of religion."

Mr. CLARK, of Alamakee. The word "the" might be just as well. But I think "an" is well enough.

Mr. CLARKE, of Henry. As the section stands now, it is equivalent to saying that there shall be no law for the establishment of any religion. If it was changed so as to read "*the* establishment of religion," it might seem that it referred to the establishment of some particular religion.

Mr. TRAER. Very well; I am not particular. I desired merely to call the attention of the convention to the language used in that section.

The question was upon the passage of the article.

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Mr. TRAER. I think it would be well to have the yeas and nays upon the final passage of these articles.

The yeas and nays were accordingly ordered.

The question being then taken, by yeas and nays, upon the passage of the article upon the preamble and bill of rights, it was agreed to; yeas 26, nays 6, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gibson, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Parvin, Price, Scott, Seely, Skiff, Todhunter, Traer, Wilson, Winchester and Young.

Nays—Messrs. Emerson, Gillaspy, Palmer, Patterson, Peters and Solomon.

Right of Suffrage.

Mr. CLARKE, of Henry, from the committee of revision, reported back the following as the article upon the right of suffrage:

Article 3.—*Right of Suffrage.*

Section 1. Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, and going to and returning therefrom.

Sec. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

Sec. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

Sec. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

Sec. 6. All elections by the people shall be by ballot.

The question was upon the final passage of the article.

Upon this question—

Mr. TRAER called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, upon the passage of the article on the right of suffrage, it was agreed to; yeas 30, nays 2, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Price, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Wilson, Winchester and Young.

Nays—Messrs. Emerson and Peters.

Legislative Department.

Mr. CLARKE, of Henry, from the committee of revision, reported back to the convention the following as the article on the distribution of powers and the legislative department:

Article 3.—*Of the Distribution of Powers:*

Section 1. The powers of the government of Iowa shall be divided into three separate departments: The legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Legislative Department.

Section 1. The legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives; and the style of every law shall be—"Be it enacted by the General Assembly of the State of Iowa."

Sec. 2. The sessions of the General Assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the Governor of the State shall, in the interim, convene the General Assembly by proclamation.

Sec. 3. The members of the House of Representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the Presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

Sec. 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and have been an inhabitant of this State one year next preceding his election, and at the time of his election have an actual residence of thirty days in the county or district he may be chosen to represent.

Sec. 5. Senators shall be chosen for the term of four years, at the same time and place as Representatives: they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

Sec. 6. The number of Senators shall not be

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less than one third, nor more than one half the representative body; and shall be so classified by lot, that one class, being as nearly one half as possible, shall be elected every two years. When the number of Senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

Sec. 7. Each House shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

Sec. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

Sec. 9. Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the general assembly of a free and independent state.

Sec. 10. Every member of the general assembly shall have the liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have his reasons for the dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

Sec. 11. Senators and representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

Sec. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

Sec. 13. The doors of each house shall be open, except on such occasion as, in the opinion of the house, may require secrecy.

Sec. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 15. Bills may originate in either house, and may be amended, altered or rejected by the other; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

Sec. 16. Every bill which shall have passed the general assembly, shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house present, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, Sunday excepted, the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return.

Sec. 17. No bill shall be passed, unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

Sec. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every regular session of the general assembly.

Sec. 19. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

Sec. 20. The governor, judges of the supreme and district courts, and other state officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment, in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit under this state; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanors in office, in such manner as the general assembly may provide.

Sec. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

Sec. 22. No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to hold a seat in the General Assembly: *Provided*, That offices in the militia, to which there is attached no annual salary, or office of justice of the peace, or postmaster whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

Sec. 23. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either House of the General Assembly, or be eligible to hold any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

Sec. 24. No money shall be drawn from the

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treasury but in consequence of appropriations made by law.

Sec. 25. Each member of the first General Assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles traveled in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no General Assembly shall have power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

Sec. 26. No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the General Assembly by which they were passed. If the General Assembly shall deem any law of immediate importance they may provide that the same shall take effect by publication in newspapers in the State.

Sec. 27. No divorce shall be granted by the General Assembly.

Sec. 28. No lottery shall be authorized by this State; nor shall the sale of lottery tickets be allowed.

Sec. 29. Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Sec. 30. The General Assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities or towns;

For vacating roads, town plats, streets, alleys or public squares;

For locating or changing county seats;

In all the cases above enumerated, and in all oth r cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

Sec. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local, or private purposes, unless such appropriation, compensation or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

Sec. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of Iowa, and that I will faithfully discharge the duties of senator, (or representative, as the case may be,) according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the said oath or affirmation.

Sec. 33. The general assembly shall, in the years 1858, 1862, 1864, 1866, 1868, and 1875, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the state.

Sec. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each.

Sec. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the state, according to the number of white inhabitants in each, upon ratios to be fixed by law; *Provided*, That no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county, and each district which shall have a number of inhabitants equal to one half of the ratio fixed by law, shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law a fraction of one-half of that number, shall be entitled to one additional representative; *Provided further*, That no floating district shall hereafter be formed.

Sec. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix such ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

Sec. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial or representative district.

Sec. 38. In all elections by the general assembly, the members thereof shall vote viva

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voce; and the votes shall be entered on the journal.

Enumeration and Apportionment.

Mr. CLARKE, of Henry. I wish to offer a resolution to recommit this article to the standing committee on the distribution of powers, and the legislative department, with instructions, as follows:

"*Resolved*, That the article on the legislative department be recommitted to the standing committee on that subject, with instructions to so modify the thirty-fifth section, as to require the apportionment for members of the house of representatives to be made upon the basis of population, instead as provided in that section:

"Also to so modify the thirty-third section, as to cause the enumeration, provided for in that section, to be made in the years 1859, 1863, 1865, 1867, 1869 and 1875, instead as provided in that section."

I voted for that basis of representation, as did every other member in the convention, except two. I did so, however, without reflection. I have since become satisfied that it was wrong, and I want to have an opportunity to put myself upon record in favor of some other basis of representation. I shall, therefore, call the yeas and nays upon this resolution.

Mr. TRAER moved to lay the resolution on the table.

Mr. CLARKE, of Henry. Would an amendment to that resolution be now in order?

The PRESIDENT. Not at this time, a motion having been made to lay the resolution upon the table. If this resolution, however, is laid upon the table, it will not preclude the gentleman from Henry [Mr. Clarke] or any other gentleman, from moving to recommit this article with different instructions.

Upon the motion to lay upon the table—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, upon the motion to lay the resolution upon the table, it was agreed to, yeas 23, nays 12, as follows:

Yeas—Messrs. Ayres, Clark of Alamakee, Day, Emerson, Gibson, Gillaspy, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer and Winchester.

Nays—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Marvin, Parvin, Warren, Wilson and Young.

Mr. EDWARDS, when his name was called, said: "Although this apportionment gives my district a greater representation than we would be entitled to, under the old apportionment, yet I think it will work such injustice to the old counties, that I do not ask it for the benefit it will be for my district. I shall, therefore, vote against laying this resolution upon the table.

Mr. SKIFF, when his name was called, said: I shall vote to lay this resolution upon the table, for the same reason that some members, from the most populous counties of this State, vote in the same way. If they are willing to give the new counties any advantage, I am willing to take it.

Apportionment of Senators.

Mr. WILSON. I wish to move to refer this article to the standing committee with certain instructions, unless the amendment I propose can be made by general consent. I think, when their attention is called to it, that members will all see the difficulty that will follow from the adoption of this article as it now stands. It is provided in the thirty-third section that—

"The general assembly shall, in the years 1858, 1862, 1864, 1866, 1868, and 1875, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the State."

The thirty-fourth section then provides that—

"The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties, according to the number of white inhabitants in each."

That will require an apportionment of senators every two years, whereas we have fixed their terms of office at four years. It seems to me that that section ought to be changed so as to require the senators to be apportioned by the general assembly in 1858, and every fourth year thereafter.

Mr. PARVIN. I would also suggest another reason for this alteration. Suppose that we limit by this constitution, as we have done here by the thirty-fifth section, the number of senators to fifty. And suppose that an apportionment is made when the full number of senators—fifty—are elected. There may be new counties then that will want senators, but they cannot displace any of those elected, until the four years for which they were elected shall have expired. I think, therefore, this amendment is necessary.

Mr. CLARKE, of Henry. This amendment may be right enough, but I cannot see the necessity of it. As I understand it, one-half of our senators will go out of office every two years. Now if we do not provide for an apportionment of senators except at the end of every four years, there will still be one-half the senators to remain in office for two years. So that it will be the same, it appears to me, whether the apportionment is made every two years, or every four years. Whenever the apportionment is made, one-half of the offices of senators are filled; so that it seems to me that the amendment of the gentleman from Jefferson, [Mr. Wilson,] does

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not reach the matter at all. I think, therefore, it would be better to leave the section as it is. I must object to this amendment, because I do not see the necessity for it.

Mr. WILSON. I have no wish to urge this amendment upon the convention, unless they can see the propriety of it. It seems to me that the amendment is necessary. In 1858 there is to be an apportionment of the senate. The senatorial term is for four years, commencing with the first session under this constitution. The senators first elected under this constitution will hold for four years. And it seems to me, therefore, that there is a propriety in making the apportionment of senators only at the commencement of the senatorial term under this constitution, the first of which will not expire until the year 1862.

Objection being made by Mr. Clarke of Henry, the amendment was not agreed to.

Approval of Bills.

Mr. WILSON. I wish to have another amendment made to this article; to add to section sixteen, which relates to the approval of bills by the governor, the following:

"Any bill submitted to the governor for his approval during the last three days of a session of the general assembly, shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof."

My reason for desiring the incorporation of this provision with the article upon the legislative department is this: It is well known that all the important business of the general assembly is kept until within the last two or three days of the session. when nearly all the important bills are passed, and the governor has therefore, no time to examine them thoroughly before the adjournment. For the purpose of giving him that time, I offer this amendment, so that the governor will be required to deposite all bills submitted to him during the last three days of a session, in the office of the secretary of state, within thirty days after the adjournment with or without his approval, as the case may be.

No objection being made, the amendment was agreed to.

The further consideration of the article on the legislative department was here suspended.

Forwarding Mail Matter to Members.

Mr. SKIFF moved that the convention take a recess until to-night at 7 o'clock, but withdrew the motion at the request of—

Mr. WINCHESTER, who said: The chairman of the committee on expenditures, [Mr. Johnston,] has requested me to offer the following resolution, so that the committee may be able to report to-night:

"*Resolved*, That S. C. Trowbridge be employed to forward to members of this convention the mail matter which may arrive at this affice, after the final adjournment of this convention, and that he be allowed the sum of thirty dollars for said services."

Mr. SOLOMON. If other members will do as I propose to do, they will get their mail matter themselves. I intend to go to the post office, and ask the postmaster to forward my mail matter to me. I move to lay this resolution upon the table.

Mr. CLARKE, of Johnson. I desire to say that this resolution is altogether unexpected to Mr. Trowbridge, and he does not desire the job. He would take it as a favor if the mover of this resolution would withdraw it.

Mr. TRAER. I would move to strike out the name of "S. C. Trowbridge," and insert the name of "Willis Conard," our paper-folder.

Mr. WINCHESTER. I will accept that amendment.

Mr. SOLOMON withdrew his motion to lay upon the table.

The question was then taken upon the resolution as modified, and it was adopted.

Enrolling the Constitution.

Mr. WILSON. I think as the different articles of our constitution are read the third time, and passed, they ought to be enrolled, in order that there may be an enrolled copy of the constitution, to be signed by members of this convention, before we adjourn. I would, therefore, suggest the propriety of employing two or more clerks to do this work, in order that it may go on immediately.

Mr. HALL. I hope the gentleman does not expect us to stay here until this constitution is all enrolled. If he does I think he will be mistaken.

Mr. CLARKE, of Henry. I think the parchment is already prepared for enrolling. and the work can be commenced forthwith.

Mr. TRAER. I was talking with the gentleman who is now engaged in preparing an enrolled copy of the constitution, and he says he does not think that he could complete it in a day and night.

On motion of Mr. SKIFF—

The Convention then took a recess until to-night at seven o'clock.

NIGHT SESSION.

The Convention re-assembled at seven o'clock P. M., and was called to order by the President.

Adjournment Sine Die.

Mr. TODHUNTER. I move to take up the

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resolution laid upon the table to extend the time fixed upon for adjournment.

Mr. GILLASPY. I hope the gentleman will withdraw that motion, and let us go on and work until the proper time for closing our night's labor. We can go on and work until twelve o'clock, and if we are not through then, we can take up the resolution, and pass it, as well as we can now.

Mr. WILSON. I hope the resolution will be taken up now, and passed by this convention. We can just as well do it now, as to attempt to do it at midnight, or near midnight, and then fight upon it until after twelve o'clock, and be compelled to adjourn without any constitution. If we get through to-night, we can adjourn just as well without an order to that effect as with one. I hope this resolution will be taken up and passed.

Mr. TODHUNTER. We have placed in this new constitution all the guards we could possibly devise to prevent indecent haste in legislation hereafter. And yet it is proposed that we should ourselves set a different example to future legislatures by sitting here to-night, and hurriedly passing through the matters before us, and perhaps spoiling all that we have done during the entire session of this convention.

I am satisfied, and I think that every member upon this floor must be fully satisfied, that we cannot complete our labors to-night. It would be improper to do so, or for us to even attempt to do so. We may sit here until to-morrow morning, and then not complete our work. We should exercise some care in our work here, so that the constitution, when it leaves our hands, shall be in proper shape, and have all its parts fit together, so as to make it such a complete instrument as we can sustain hereafter before the people. We have spent too much time, and too much money upon this constitution to fool it all away by endeavoring to complete it to-night.

There is no gentleman here who is more anxious to get away than I am. But I am not willing to sacrifice all our winter's work for the sake of enabling one or two individuals to get home a day or two sooner. I will say farther, that if there are members here who wish to leave for home to-morrow, I am willing to excuse them from attending here. But I am not willing, in order that they may do that, to have this constitution put together in an imperfect and incomplete manner.

Mr. BUNKER. I should hardly know how to vote upon this question, unless I knew the effect upon this convention of an adjournment until to-morrow.

The PRESIDENT. The chair can give no explanation in regard to that matter, and can only put the question to the convention.

Mr. TRAER. I should be inclined to vote against taking up this resolution, were it not that I desire to save time, and get rid of this matter as soon as possible. I shall, therefore, vote in favor of taking it up.

The question recurred upon the motion to take up the resolution rescinding a former resolution fixing the fourth of March as the time for the final adjournment of the convention.

Upon this question—

Mr. TODHUNTER called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, upon taking up the resolution, it was agreed to; yeas 17, nays 12, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Hollingsworth, Marvin, Parvin, Scott, Todhunter, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Day, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters and Price.

The resolution was then read as follows:

"*Resolved*, That this convention rescind the resolution, adopted some days since, to adjourn on the fourth day of March, 1857, without day."

The question was then taken, and the resolution was adopted.

Legislative Department.

The convention then resumed the consideration of the article upon the legislative department, which was upon its third reading.

Mr. PARVIN. I hope the figures in the thirty-third section will be changed. Gentlemen will see at once the difficulty that will arise in consequence of the arrangement made for the meeting of the General Assembly. The census will be taken one year from this spring, and no General Assembly will meet the year following.

The PRESIDENT. The amendment can be agreed to by unanimous consent.

There being no objection, the motion to strike out "1858, 1862, 1864, 1866 and 1868," and insert in lieu thereof, "1859, 1863, 1865, 1867 and 1869," was agreed to.

Apportionment of Representation.

Mr. CLARKE, of Johnson. I desire to call the attention of the convention to the construction of this clause of the thirty-fifth section:

"Every county and each district which shall have a number of inhabitants, equal to one half the ratio fixed by law, shall be entitled to one representative; and any one county containing, in addition to the ratio fixed by law, a fraction of one half that number, shall be entitled to one additional representative."

To illustrate what I mean: Suppose there are two counties constituting a district, and the population of that district amounts to one half more than the ratio, they will be entitled to two representatives under the first clause. The next clause provides "that any one county contain-

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ing in addition to the ratio fixed by law, a fraction of one half of that number, shall be entitled to one additional representative."

The result would be, that a district with a population of a fraction over half above the ratio, would really be entitled to three representatives. There would be two from the district representing the fraction and a half, and there would be one from the county which contained that fraction. It seems to me that a construction may be put upon this section—I will not say it will be put upon it—by which gross injustice may be perpetrated upon a large portion of the people of the State.

Our fundamental law ought not to be open to objections of this character. This kind of ambiguity, which I have pointed out, ought not to exist in it. I do hope that a question of so much importance will receive the serious attention and consideration of the convention. This provision of the constitution, as it now stands, would increase the number of representatives from my district. But I am looking to the rights of the people at large. I ask the convention to take some steps to remove the apparent danger which exists here. The difficulty can be obviated by striking out a portion of the section, so that it would then read—

"Every county and each district which shall have a number of inhabitants equal to one half of the ratio fixed by law, shall be entitled to one representative."

Mr. TRAER. It is a little surprising to me that gentlemen should make so much ado about this section. If they will refer to the constitution of Ohio, they will find a provision similar to this. When gentlemen talk about inequality, and the injustice that will result from the adoption of this section, they forget all the time that under the old system the newer counties had no representation at all. They forget that such counties as Johnson and Cedar have been representing us without our consent; and they forget that the shoe pinched then upon the other foot. They now begin to make complaint as they find the scepter of power passing away from them, and find that they cannot control legislation. They will find the power passing away from them, let them work ever so hard to avert it.

Mr. CLARKE, of Johnson. The gentleman does not meet the point I made. The objection I make to the section is, that it does not accomplish what the convention evidently intended. The fact is, the section as it now stands, gives double representation for a fraction, wherever the district is composed of two or more counties. Suppose there are three counties, and in the whole of the district there is a fraction over the ratio. The district has a representative and the fraction in one county has a representative; so that is a double representative for this fraction. That was not the intention of the convention. I am not seeking to cut down the basis of representation, but to confine it to what was evidently the intention of the convention. I do not want the convention to labor under a misapprehension as to the construction which will be put upon this section.

Mr. TRAER. I wish to ask the gentleman to which portion of the section he objects?

Mr. CLARKE, of Johnson. I object to this portion:

"And any one county, containing in addition to the ratio fixed by law a fraction of one half of that number, shall be entitled to one additional representative."

Mr. TRAER. Upon this basis, if a county is entitled to one representative, no other county will be put into a district with that county, so that the objection raised by the gentleman is a merely imaginary one.

Mr. CLARKE, of Johnson. The section does not say so.

Mr. TRAER. I suppose the legislature will be composed of men of common sense, and can understand what the intention of the section was. The provision is not exactly what was reported by the special committee. It has been somewhat modified by the committee on revision.

Mr. CLARKE, of Johnson. If this section provided that no county having more than a fraction over half the ratio, should be joined with any other county, then the gentleman's construction would be correct. But there is no such provision here; and it will not be the business of the general assembly to find out how many counties there are that have a fraction over half the ratio. Hence it was that I called the attention of the legal members of the convention to the fact, whether the construction which I have put upon this section will not be the legal one.

Mr. TRAER. I would like to read the provision in the constitution of Ohio, which the gentleman will find to be the same in principle as the section of which the gentleman complains. The provision in the constitution of Ohio reads as follows:

"Every county, having a population equal to one-half of said ratio, shall be entitled to one representative; every county containing said ratio, and three-fourths over, shall be entitled to two representatives; every county containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative."

I contend that the provision we have here made in our constitution gives the old counties of this state more representation than the counties in Ohio get. The only difference between this and the old system is simply this, that the newer counties get the advantage of the fraction for the first representation and the older counties get it upon the second.

The PRESIDENT. Does the gentleman from Benton, [Mr. Traer,] object to the amendment?

Mr. TRAER. I do.

Mr. CLARKE, of Johnson. I move to recom-

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mit this section to the standing committee on the legislative department, with instruction to examine this subject.

Mr. TRAER. It is clearly out of order to make such a motion.

Residence of Members of the House.

Mr. CLARKE, of Johnson. I wish to call the attention of members to section four, which reads as follows:

"No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and have been an inhabitant of this State one year next preceding his election, and at the time of his election have an actual residence of thirty days in the county or district he may be chosen to represent."

Mr. CLARKE, of Johnson. I wish to strike out the word "thirty," and insert "sixty," so as to make the section harmonize with the article in relation to the right of suffrage, which requires that a person shall be a resident of the county sixty days before he is entitled to vote. By this section a person may be elected to the house of representatives, who has been only thirty days in the county or district.

Mr. PETERS. If the gentleman wishes to harmonize the two sections, let him strike out the word "sixty," in the other article.

Mr. WILSON. I move that section four be referred to the standing committee on the legislative department with instructions to strike out "thirty," and insert "sixty" in lieu thereof, unless it can be made here by general consent.

No objection being made the amendment was agreed to.

Apportionment of Representation.

Mr. CLARKE, of Johnson. I now renew my motion to recommit the article on the legislative department to the standing committee upon that subject, with instructions to consider the expediency of striking out a portion of the thirty-fifth section, so that it would read as follows:

The Senate shall not consist of more than fifty members, nor the House of Representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the state, according to the number of white inhabitants in each, upon ratios to be fixed by law; *Provided*, That no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county and each district which shall have a number of inhabitants equal to one half of the ratio fixed by law, shall be entitled to one representative; *Provided, further*, That no floating district shall hereafter be formed.

Mr. PETERS. I hope that the gentleman from Benton [Mr. Traer] will withdraw his objections.

Mr. TRAER. I think the adoption of the amendment of the gentleman from Johnson, [Mr. Clarke] would work great injustice to the new counties. I object to it upon the ground also that it will be depriving the older counties of more than one representative, unless they have a full ratio.

Mr. WILSON. I wish to call the attention of the gentleman from Johnson [Mr. Clarke] to the thirty-sixth section:

"At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative."

I would ask him if this does not provide for the difficulty which he suggests?

Mr. CLARKE, of Johnson. I think not. I desire to have this matter referred to the committee with the instructions which I have suggested.

Mr. PARVIN. I do not believe that it is advisable at this late hour to refer this subject to the committee in order to get a change. I do not believe this section will be changed because there was too decided a vote in favor of this section for the convention to change it.

Mr. CLARKE, of Henry. There is an universal dissatisfaction with regard to this section, because it is unjust upon its face. To say that one-half shall be equal to the whole strikes every one as manifestly unjust and improper, and every gentleman here, if he will reflect for a moment, will see that the provision in this section will operate unequally, and will create dissatisfaction all over the state. For instance, if you say that a county which shall have a population equal to one-half of the ratio shall be entitled to one representative; and if the ratio should be fixed at ten thousand, why then a new county which happens to have five thousand inhabitants will be equal in point of representation to another county that has fourteen thousand, nine hundred and ninety-nine.

You do not say one-half of the number of inhabitants of any other county that has but one representative, but you say a population equal to one half of the ratio fixed by law. I am confident that the adoption of this section here will create more dissatisfaction than is generally supposed by gentlemen.

I suggested the idea that we should say "two-thirds" instead of "one half;" but it did not elicit any remark or discussion here, although it has elicited discussion and remark since this proposition has gone out among the people. But gentlemen come and tell me that by the adoption of this section my own county will be the gainer. I do not ask that my county shall have any more than a fair representation. I do not ask that she shall have any advantage over and above any other county. No gentleman here should

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ask any such advantage for his constituency, but we should all act justly and fairly in this matter.

I suggested to the gentleman from Mills, [Mr. Solomon,] and I now say, that I am willing to take into consideration population as well as territory, in the matter of representation; and I am willing, to a certain extent, that we should consider organized counties, in connection with this subject. But I was never willing to say that one half should be equal to a whole. I hope this whole subject will be re-committed to the committee on the legislative department, and that they will report back a recommendation to insert "three-fourths" instead of "one-half."

I do not think the objection of the gentleman from Johnson [Mr. Clarke,] to the last clause of the section has much force. I think it is perfectly clear and apparent that if a county of over five thousand inhabitants shall be put into a district with another county, she will be entitled to a representative; but if a county has less than five thousand inhabitants is attached to another county, they can only get one representative between them. The great difficulty in this matter is in saying, that a county which has a population equal to one-half of the ratio is entitled to representation, and for that reason I would ask, that the committee be instructed to report that "three-fourths" be submitted in place of "one-half." I think it must strike the mind of every one here, that the provision contained in this section will work a great deal of hardship, and will create much dissatisfaction, and, therefore, that we had better remedy the difficulty, and establish a different basis.

Mr. HARRIS. I call for the previous question.

The call for the previous question was seconded, and the main question was then ordered to be put.

The PRESIDENT. The question is upon the motion of the gentleman from Johnson, [Mr. Clarke,] that the article on the legislative department be re-committed to the standing committee on that subject, with instructions to so amend the thirty-fifth section that it will read:

"The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the State, according to the number of white inhabitants in each, upon ratios to be fixed by law; *Provided*, That no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county, and each district which shall have a number of inhabitants equal to one half of the ratio fixed by law, shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law a fraction of one-half of that number, shall be entitled to one additional representative; *Provided further*, That no floating district shall hereafter be formed.

The question was then taken, by yeas and nays, upon the motion to recommit, with instructions, and it was not agreed to; yeas 13, nays 19, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Emerson, Gower, Marvin, Peters, Scott, Skiff, Warren, Wilson and Young.

Nays—Messrs. Ayres, Clark, of Alamakee, Day, Edwards, Gibson, Gillaspy, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Price, Robinson, Seely, Todhunter, Traer and Winchester.

Mr. EDWARDS. I wish to say in explanation of my vote, that after a careful investigation of this section, I have come to a different conclusion from what I entertained some time since with regard to the construction to be put upon that clause. Not viewing it now in the light in which the gentleman from Johnson regards it, I voted "no."

Mr. CLARKE, of Henry. I now move that this article be recommitted to the standing committee, with instructions to insert "three-fourths" in the place of "one-half," in the latter portion of the section, so that it would then read—

"Every county, and each district, which shall have a number of inhabitants equal to *three-quarters* of the ratio fixed by law, shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law, three-fourths of that number or more, shall be entitled to one additional representative; *Provided, further*, that no floating district shall hereafter be formed."

The question was then taken, by yeas and nays, upon the motion made by Mr. Clarke of Henry, and it was not agreed to; yeas 12, nays 22, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Ells, Gower, Marvin, Scott, Skiff, Warren and Young.

Nays—Messrs. Ayres, Clark of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Seely, Todhunter, Traer and Winchester.

Mr. CLARKE, of Henry. I ask the unanimous consent of the convention to insert "two-thirds" in the place of "one half," in this section.

Mr. MARVIN. I hope the suggestion of the gentleman from Henry will be agreed to. The fact is, in our great anxiety to get rid of the floating system, we are about to adopt a system ten times worse than that. It will give the legislature an opportunity to gerrymander the State, and they may so alter the ratio that certain counties may be left with a population just below the ratio, and thus be deprived of their proper representation. There is no State in the

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Union where such a system for dividing the State has been adopted.

The question was then taken, by yeas and nays, upon the motion made by Mr. Clarke of Henry, and it was not agreed to; yeas 13, nays 20, as follows:

Yeas—The President, Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Ells, Gower, Gray, Hollingsworth, Scott, Skiff, Warren, Wilson and Young.

Nays—Messrs. Ayres, Clark of Alamakee, Day, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Seely, Todhunter, Traer and Winchester.

The PRESIDENT. The question now before the convention is, "Shall the article pass?"

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, and they were accordingly ordered.

The question was then taken, by yeas and nays, and the article was passed; yeas 30, nays 4, as follows:

Yeas—The President, Messrs. Ayres, Clark of Alamakee, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gray, Hall, Harris, Hollingsworth, Johnston, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Bunker, Clarke of Henry, Clarke of Johnson, and Gower.

State Capitol and University.

Mr. CLARKE, of Henry, from the committee on revision, reported back the article with regard to the location of the seat of government and the State University, as follows:

Sec. 1. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State University at Iowa City, in the county of Johnson."

The article having been read the third time—

The yeas and nays were demanded, and ordered upon its final passage.

The question was then taken, by yeas and nays, and the article was passed; yeas 22, nays 12, as follows:

Yeas—The President, Messrs. Ayres, Clarke of Henry, Clarke of Johnson, Day, Edwards, Gibson, Gillaspy, Hall, Harris, Hollingsworth, Johnston, Palmer, Patterson, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter and Warren.

Nays—Messrs. Bunker, Clark of Alamakee, Emerson, Gower, Gray, Marvin, Parvin, Peters, Traer, Wilson, Winchester and Young.

Mr. TRAER. I desire to say in explanation of the vote I gave upon this question, that I consider this provision endangers the adoption of the constitution. I did not vote "no" because I have any objection to the location of either of these institutions.

Mr. WINCHESTER. I desire to say in explanation of my vote, that I voted "no" for the reason I have given in regard to voting upon other propositions, that I am opposed to incorporating anything of this kind into the constitution.

Executive Department.

Mr. CLARKE, of Henry, from the committee on revision, reported back the article on the executive department, as follows:

Article 4.—Executive Department.

Sec. 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Iowa.

Sec. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office two years from the time of his installation, and until his successor shall be elected and qualified.

Sec. 3. There shall be a Lieutenant Governor, who shall hold his office two years, and be elected at the same time of the Governor. In voting for Governor and Lieutenant Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor, and Lieutenant Governor, shall be sealed up and transmitted to the seat of government, directed to the speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

Sec. 4. The persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes cast for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor, or Lieutenant Governor, as the case may be.

Sec. 5. Contested elections for Governor, or Lieutenant Governor, shall be determined by the General Assembly, in such manner as may be prescribed by law.

Sec. 6. No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have been a citizen of the United States and a resident of the State two years next preceding the election, and attained the age of thirty years at the time of said election.

Sec. 7. The Governor shall be commander-in-chief of the militia, the army, and navy of this State.

Sec. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing

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from the officers of the Executive Department upon any subject relating to the duties of their respective offices.

Sec. 9. He shall take care that the laws are faithfully executed.

Sec. 10. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly, or at the next election by the people.

Sec. 11. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

Sec. 12. He shall communicate, by message, to the General Assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

Sec. 13. In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; *Provided*, it be not beyond the time fixed for the regular meeting of the next General Assembly.

Sec. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of Governor, or Lieutenant Governor, except as hereinafter expressly provided.

Sec. 15. The official term of the Governor, and Lieutenant Governor, shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The Lieutenant Governor, while acting as Governor, shall receive the same pay as provided for Governor; and while presiding in the Senate shall receive as compensation therefor, the same mileage, and double the per diem pay provided for a Senator, and none other.

Sec. 16. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

Sec. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the Governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

Sec. 18. The Lieutenant Governor shall be President of the Senate, but shall only vote when the Senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President pro tempore.

Sec. 19. If the Lieutenant Governor, while acting as Governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the President pro tempore of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

Sec. 20. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

Sec. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of this State, signed by the Governor, and countersigned by the Secretary of State.

Sec. 22. A Secretary of State, Auditor of Public Accounts, and Treasurer of State, shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

Mr. WILSON. I propose a verbal amendment in the thirteenth section, to strike out the words "provided it be not," and insert "but no such adjournment shall be."

So that the section will read—

"In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly."

I ask the unanimous consent of the convention to make the amendment.

There being no objection, the amendment was agreed to.

Mr. WILSON. I would suggest an amendment to the twenty-second section, to strike out "public accounts," and insert "State" in lieu thereof, so that the section would read—

"A Secretary of State, Auditor of State, and Treasurer of State, shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law."

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There being no objection, the amendment was agreed to.

Mr. CLARKE, of Johnson. I would suggest that in section twenty-one the word "this" before the words "State" be stricken out, and that the word "the" be inserted in lieu thereof, so that the section would read—

"All grants and commissions, &c., shall be sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of the State."

There being no objection, the amendment was agreed to.

The question was upon the passage of the article.

Upon this question—

The yeas and nays were called, and ordered.

The question was taken, by yeas and nays, and the article was passed; yeas 35, nays none.

Yeas—The President, Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—none.

Judicial Department.

Mr. CLARKE, of Henry, from the committee on revision, reported back to the convention the article upon the judicial department, which was then read the third time.

Several verbal amendments were made to the article.

Mr. SKIFF. I was not here when this article was passed upon, and perhaps it may be presumption for me at this late hour to ask for the amendment I desire. I desire to strike out from the tenth section the words, "but such increase or diminution shall not be more than one district, or one judge of either court at any one session;" so that if the legislature shall think proper to increase or diminish the number of districts more than one at a session, they may do so.

Mr. CLARKE, of Johnson. I cannot consent to that. Our very object was to restrain the legislature from doing what they did last winter, making their districts to suit their candidates.

Objection being made, the amendment could not be received.

The question was then stated upon the passage of the article, which, as amended upon its second and third reading, is as follows:

Article 5.—Judicial Department.

Section 1. The judicial power shall be vested in a Supreme Court, District Courts, and such other Courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.

Sec. 2. The Supreme Court shall consist of three Judges, two of whom shall constitute a quorum to hold Court.

Sec. 3. The Judges of the Supreme Court shall be elected by the qualified voters of the State, and shall hold their Court at such time and place as the General Assembly may prescribe. The Supreme Judges, so elected, shall be classified, so that one Judge shall go out of office every two years; and the Judge holding the shortest term of office under such classification, shall be Chief Justice of the Court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each Judge of the Supreme Court shall be six years, and until his successor shall have been elected and qualified. The Judges of the Supreme Court shall be ineligible to any other office in the State, during the term for which they shall have been elected.

Sec. 4. The Supreme Court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a Court for the correction of errors at law, under such restrictions as the General Assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

Sec. 5. The District Court shall consist of a single Judge, who shall be elected by the qualified votes of the District in which he resides. The Judge of the District Court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of Supreme Judge, during the term for which he was elected.

Sec. 6. The District Court shall be a Court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

Sec. 7. The Judges of the Supreme and District Courts shall be conservators of the peace throughout the State.

Sec. 8. The style of all process shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

Sec. 9. The salary of each Judge of the Supreme Court shall be two thousand dollars per annum; and that of each District Judge sixteen hundred dollars per annum, until the year 1860; after which time, they shall severally receive such compensation as the General Assembly may, by law, prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

Sec. 10. The State shall be divided into eleven Judicial Districts; and after the year

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1860, the General Assembly may re-organize the judicial districts, and increase or diminish the number of districts, or the number of Judges of the said Court, and may increase the number of Judges of the Supreme Court; but such increase or diminution shall not be more than one district, or one Judge of either Court, at any one session; and no re-organization of the districts, or diminution of the Judges, shall have the effect of removing a Judge from office. Such re-organization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of the Judges, shall take place every four years thereafter, if necessary, and at no other time.

Sec. 11. The Judges of the Supreme and District Courts shall be chosen at the general election; and the term of office of each Judge shall commence on the first day of January next, after his election.

Sec. 12. The General Assembly shall provide, by law, for the election of an Attorney General by the people, whose term of office shall be two years, and until his successor is elected.

Sec. 13. The qualified electors of each judicial district shall, at the time of election of District Judge, elect a District Attorney, who shall be a resident of the district for which he is elected, and shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

Sec. 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the Courts of this State.

The question being taken by yeas and nays, the article was passed, yeas 21, nays 6—as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clark of Johnson, Day, Edwards, Ells, Gibson, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Clark of Alamakee, Emerson, Gillaspy and Peters.

Militia.

Mr. CLARKE of Henry, from the committee on revision, reported back to the convention, the article upon the militia, which was then read the third time, as follows:

Article 6.—*Militia.*

Section 1. The militia of this state shall be composed of all able bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this state, and shall be armed, equipped and trained, as the general assembly may provide by law.

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: Provided, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

Sec. 3. All commissioned officers of the militia, (staff officers excepted,) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

On motion of Mr. HALL,

The article was passed by acclamation.

State Debts.

Mr. CLARK of Henry, from the committee on revision, reported back to the convention the article upon state debts, which was then read the third time.

Mr. CLARK of Johnson. I wish to call the attention of the convention to a conflict between the article upon state debts and that upon corporations. The first section of the article upon state debts provides:

"The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the state shall never assume, or become responsible for, the debts or liabilities of any individual, association or corporation."

Section three in the article upon corporations reads in this wise:

"The state shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the state."

Thus it will be seen that the article on state debts prohibits the state from ever becoming liable for any corporation, and the article on corporations permits the state to become liable for a debt incurred in time of war for the benefit of the state.

Mr. HALL. The last is a qualification of the first.

Mr. WILSON. I intended to suggest that this clause be added to the article on state debts, and be stricken out from the article on corporations.

On motion of Mr. CLARKE of Johnson,

The words "unless incurred in time of war for the benefit of the state," were added to the first section.

Mr. PALMER. I will call attention to the close of the fifth section. I would suggest that it should read, "and such law shall be published in one newspaper at least in each county where such newspaper is published."

Mr. CLARKE of Johnson. I think it would read better the other way.

Mr. WINCHESTER. I think the article reads better as it is. The amendment would make no difference in the meaning. It is only the differ-

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ence between "McCarty came out," and "came out McCarty." (Laughter.)

Mr. GRAY moved to add the letter "s" to "purpose," in the last line but one of section four, so as to read, "to the purposes for which it was raised."

Mr. CLARK of Alamakee. There can only be one purpose for any one such debt. It might be either to repel invasion, to suppress insurrection, or to defend the state in war.

Mr. GRAY. I am not particular about it. Section six strikes me as particularly awkward in phraseology. You will find the words "such law" repeated no less than four times in this section, and "by law" in the same section. I have no amendment to propose, however.

On motion of Mr. SKIFF,

The words "by law" were stricken out, there being no other mode in which the legislature could forbid the contracting of debts or liabilities.

The word "thereof" was substituted for "of such law," near the close of the section.

The article as amended upon its second and third readings, is as follows:

Article 7.—State Debts.

Section 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war, for the benefit of the State.

Sec. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Sec. 3. All losses to the permanent, school, or university fund of this State, which shall have been occasioned by the defalcation, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund sustaining the loss, upon which not less than six per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

Sec. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Sec. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

Sec. 6. The legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may, at any time, forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

Sec. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

Upon the passage of the article—

Mr. TRAER called for the yeas and nays, and they were ordered accordingly.

The question being taken, by yeas and nays, upon the passage of the article, it was agreed to; yeas 35, nays 0, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clarke of Alamakee, Clarke of Henry, Clarke of Johnson, Day, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Robinson, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—None.

State Capitol and University.

Mr. CLARKE, of Henry. I move to reconsider the vote given here this evening, locating the capitol at Des Moines, and the University at Iowa City.

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Mr. GILLASPY. We have had enough of that subject; I move the previous question.

The question being taken upon the motion to reconsider, it was rejected.

Thanks to the President of the Convention.

Mr. JOHNSTON. I offer the following resolution:

"*Resolved*, That the thanks of this convention be hereby tendered to the Hon. Francis Springer for the able and impartial discharge of his duties as President of this convention."

I offer this resolution at this time for the reason that several members expect to leave in the morning, and I wish the vote to be taken in a full convention. I desire to say further, that I believe this resolution expresses the feelings of the gentlemen with whom I am politically associated; and I think the convention are very much indebted to the manner in which the duties of the Chair have been discharged, for the expedition of business. I hope the resolution will be adopted by acclamation.

The resolution was passed by acclamation, and unanimously agreed to.

Mr. GRAY. I offer the following resolution:

"*Resolved*, That the President of this convention be authorized and invited to remove and retain at his pleasure, the chair which he has so ably occupied during his presidency of this convention."

It is only necessary to say, in support of this resolution, that there has been a precedent for it in other and similar conventions. It was done in Ohio. It is a matter of compliment to the President.

The motion was agreed to.

Mr. CLARK, of Alamakee, moved that the convention adjourn.

The motion was not agreed to.

Corporations

Mr. CLARKE, of Henry, from the committee of revision, reported back to the convention the article on corporations, which was then read the third time, as follows:

Article 8.—*Corporations.*

Section 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Sec. 2. The property of all corporations for pecuniary profit, now existing, or hereafter created, shall forever be subject to taxation, the same as property of individuals.

Sec. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

Sec. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

Sec. 5. No act of the General Assembly, authorizing corporations or associations with banking powers, nor shall amendments thereto take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may provide for the establishment of a State bank with branches, in addition to banks provided for by general law.

Sec. 7. If a State bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all paper credit issued as money.

Sec. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks so depositing shall be required to make up said deficiency by depositing additional stocks. Said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

Sec. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all of its liabilities, accruing while he or she remains such a stockholder.

Sec. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

Sec. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

Sec. 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote

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of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

Mr. CLARKE, of Johnson. There is an ambiguity in the eighth section. It reads:

"And in case of a depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks so depositing shall be required to make up said deficiency."

This might be construed to refer to all the banks to make up the deficiency arising from the depreciation of the stock deposited by any one of them. I move to strike out "so depositing," and to insert in place thereof the words "owning said stocks."

The amendment was agreed to.

On motion of Mr. CLARKE, of Johnson,

The word "and" was inserted to unite the last sentence with the preceding, in the same section, all referring to the same law.

Mr. GRAY. I have a little batch of corrections to propose. I desire to strike out the first clause of section one, which seems to be quite unnecessary; to strike out "no corporation shall be created by special laws; but," so as to commence, "The General Assembly shall provide by general laws," &c.

Mr. CLARKE, of Johnson. There is another reason for that, which to my mind, is exceedingly forcible. The succeeding sections provide for the establishment of a State Bank, which must be done by special laws; so that this comes in conflict with section six.

Mr. CLARK, of Alamakee. I object. I wish to look at it a little. I fear that the effect of it would be to allow the legislature to pass special laws to create incorporations.

Mr. GRAY. No, sir; it will not.

Mr. CLARK, of Alamakee. I wish to satisfy myself of that.

Mr. GRAY. It would then read—

"The General Assembly shall provide, by *general* law, for the organization of *all* corporations hereafter to be created, except as hereinafter provided."

The first clause does not limit the power any more than the other. The last clause limits the power as much as both together.

Mr. CLARKE, of Henry. I think both are unnecessary, and I shall object.

Mr. MARVIN. It makes a very good preamble, and I prefer to have it there.

Mr. GRAY. It certainly appears to me bungling to have such a variety of unnecessary conjunctions and negatives. I proceed, however, to move to strike out the word "forever" from section two. It is a mere expletive.

The amendment, to strike out the word "forever," was agreed to.

Mr. GRAY moved to amend section three by inserting the words, "such debt or liability shall have been," after "unless;" to make it more definite.

Mr. CLARKE, of Johnson. I will move to strike out the whole section.

Mr. WILSON. The first clause reads: "The State shall not become a stock-holder in any corporation." The remainder of the section we have provided for in the article upon State debts, and it would only be re-asserting the same thing to retain it here. I propose, therefore, to retain the first clause, which is not provided for elsewhere, and to strike out merely the latter portion of the section.

Mr. CLARK, of Alamakee objected to the amendment.

On motion of Mr. GRAY—

Several merely verbal amendments were adopted without debate.

Mr. GRAY. I move to amend section seven, by striking out the words "paper credit issued," and inserting, "notes, bills, and other issues intended to circulate." I have some doubt about the word "credit," in connection with paper; it implies faith, reliance.

Mr. CLARKE, of Henry, objected to the amendment.

Mr. GRAY. The same phraseology occurs again in section eight; I hope the gentleman will not require the term to be used more than once. It can be struck out here, and retained there.

Mr. CLARKE, of Henry, acquiesced in that suggestion, and the amendment was made.

Mr. WILSON. I move to insert the word "also" in section six, after "may," and I do it for this purpose. The first section reads:

"No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided."

Now if the sixth section passes without anything to connect it with the first, the construction may be given, that the State Bank will have to be created by a general law.

Mr. CLARKE, of Johnson. My impression is, that when it passed, that would be found to conflict.

Mr. WILSON. I will suggest that this question was brought up a few days since, and the convention agreed in committee to make the correction; but I see that the correction has not been made.

The amendment was agreed to.

Mr. SKIFF. It seems to me that it is unnecessary in section nine, to use the feminine gender. It is well known that in all judicial decisions, the word "man" is construed to refer to the whole human family, including man and woman. I propose to amend this section by striking out these unnecessary phrases. It is a merely verbal correction. I think the section reads awk-

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wardly now. I would suggest that it read as follows:

"Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of his stock, to an amount equal to his respective shares so held, for all its liabilities, accruing while he remains such stockholder.

Mr. MARVIN. I move that that be referred to the military committee. (Laughter.)

Mr. CLARKE, of Johnson. I do not like the modification, although I think there might be some improvement. I do not think it reads any more smoothly.

Mr. SKIFF. I should not object to any improvement. The modification seemed to me to make the section read more intelligibly.

Mr. CLARKE. I will make no opposition to the amendment.

Mr. WILSON. I object. I think it reads better as it is.

Objection being made, the amendment was not received.

Mr. GILLASPY. I rise here, sir, at this late hour of the night to make a personal explanation. I hold in my hand the newspaper known as the "Daily Evening Reporter," published in this city, dated February 28, in which I find that four members of the democratic party upon this floor, are held up to the public gaze as the only democrats in this convention. So far as those gentlemen are concerned, I have not a word to say; but that is followed by an article reading every other democrat upon this floor out of the party. The article is as follows:

"ANTI-BANK MEMBERS.—AYERS, EMERSON, PETERS, SOLOMON. The above gentlemen are announced to us as the regular, genuine, *Hard-money Anti-Bank* Members of the Constitutional Convention—a very respectable and worthy "Quartette" of Independent Democrats: but, of course, not leaven enough to leaven the *lump;* consequently, it is to be hoped the latter will originate a very *unpalatable* as well as *indigestible* loaf for the dear Shinplaster-loving People."

I desire to say, as a democratic member of this convention, that I came here to represent, not only the democratic party of my county, or district, or the democratic party of the State, but, so far as in me lies, to represent the great interests and wishes of the entire people of the State. I am certain that by my vote here for the adoption of the article on incorporations, I shall represent four-fifths of the entire population of my county. I repudiate the idea that the editor of this paper shall assume to himself the province of reading out of the democratic party any of the members of that party—and I speak more particularly for myself—who were democrats before he was born, and who have been democrats a good deal longer than he has been of late years. I undertake to say that I have always been, as I am now, in favor of banks upon a sound and safe basis. I am satisfied that four-fifths of the people of this State are in favor of such banks. This article is not just what we desire; but I shall vote for it, believing it to be the best thing we can do. I am willing that the people should have the right to determine this question for themselves. I have no doubt that these four gentlemen all voted honestly; but I have no idea that the gentleman from Mills, [Mr. Solomon,] or any other one of them, would have been willing to assume the entire responsibility of defeating this article. I wish merely to say that I repudiate this whole article, and the authority of the gentleman that wrote it.

Mr. CLARKE, of Johnson. I trust that I shall be allowed to say a single word in defence of my constituents, who are assailed at this late hour by their political friends. I desire to say that I think the editor of that paper, when he comes to read our article on corporations, will take back all he has said; and he will not only concede that the gentleman is a "hard-money" man, but that a considerable portion of the republican party deserve the same title. I think the gentleman's orthodoxy will be fully satisfied when the editor of the "Reporter" comes to read this article.

Mr. CLARK, of Alamakee. I think I am peculiarly capable of sympathizing with my friend from Wapello, [Mr. Gillaspy.] I can appreciate his wounded feelings, having been myself read out of the democratic party two years and a half ago. (Laughter.)

Mr. GILLASPY. But I am in the democratic party, and the gentleman is out of it entirely.

Mr. HALL. I rise to a question of privilege. I do not think these outsiders have any right to come into this family quarrel. It is not a "free fight" at all. I would just thank them to mind their own business, and take care of their own family quarrels; and they will find that as much as they can attend to. (Laughter.]

Mr. CLARKE, of Henry. I am sorry for my friend from Wapello's wounded feelings; but I am happy to think that my prophesy is about to be fulfilled. I assured him that we should shake hands politically before many years, and I see he is coming over.

The question was stated upon the passage of the article.

Upon this question—

Mr. CLARKE, of Johnson, called for the yeas and nays, which were ordered.

The question being taken, by yeas and nays, the article was passed; yeas 29, nays 6, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Edwards, Ells, Gibson, Gillaspy, Gower, Gray, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Price, Robinson, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young

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Nays—Messrs. Ayres, Clarke of Johnson, Day, Emerson, Peters and Solomon.

Mr. SKIFF. It is late, and the Secretary has a great deal to attend to. I move that the convention adjourn.

Mr. HARRIS. We have gone through ten articles, and there are only four remaining. I suppose that we could finish in perhaps three-quarters of an hour; and we shall have as much as we can do to-morrow.

Mr. CLARKE, of Johnson. I hope the convention will have some mercy on the secretaries. They will have to work here all night, and cannot have the journal made up by the morning, if we sit longer.

Mr. JOHNSTON also expressed a hope that the convention would adjourn for the sake of the secretary, the hour being late.

The motion was agreed to.

The convention accordingly adjourned until to-morrow morning at nine o'clock.

THURSDAY, March 5, 1857.

The Convention met at nine o'clock, A. M., and was called to order by the President.

Prayer by the Chaplain.

The journal of the morning session of yesterday was read and approved.

Printing the Constitution, &c.

Mr. SKIFF offered the following resolution:

"*Resolved*, That a committee be appointed for the purpose of getting ——— copies of the new constitution printed for the use of the members of this convention; and that said committee be instructed to proceed and procure such printing ready for distribution to-morrow morning at 7 o'clock."

Mr. HALL having suggested that each member should have fifty copies,

Mr. SKIFF filled the blank with "two thousand."

Mr. TODHUNTER. I would ask whether this can be done by to-morrow morning? I sent to the office to inquire with regard to it, and the answer was rather indefinite.

Mr. HALL. Our printer is exceedingly inefficient, as inefficient as it is possible for anybody to be; but by the uniting of all the printing offices, the printing can be done.

The resolution was agreed to.

The PRESIDENT appointed Messrs. Skiff and Warren as said committee.

Mr. TODHUNTER. It will be necessary that the matter should be immediately sent to the printers; and I suggest to the committee the necessity of immediate action.

Mr. SKIFF. I wish first to make a motion. I understand that our daguerrean artist, J. R. Hartsock, is anxious to have a copy of the debates. As he has given us a copy of our faces, I think it is no more than fair that we should give him a copy of our debates. I, therefore, move that his name be inserted in the proper place.

The motion was agreed to.

Assistant Secretary.

Mr. GRAY. I offer the following resolution:

"*Resolved*, That the Assistant Secretary of this convention be allowed one dollar per diem for his services to the convention, in addition to the sum heretofore allowed him, making six dollars per diem during the attendance of the convention."

I believe, upon a reconsideration of the matter, that the two secretariet ought to be put upon an equality. There is no difference of opinion with regard to the efficiency of the assistant secretary and his ability and promptness in the discharge of his duties; and I hope the resolution will be adopted without debate and without opposition.

The resolution was agreed to.

Per Diem and Mileage of Members.

Mr. JOHNSTON, from the committee on expenditures, reported a statement with regard to the *per diem* and mileage of members, based upon the number of miles reported to the secretary yesterday, and upon the supposition that the convention would adjourn to-day.

Mr. MARVIN. I suppose it will be necessary to meet to-morrow, and if that is the intention of the convention, it would be better to lay the report on the table.

Mr. CLARK of Alamakee. For the purpose of testing the sense of the conventton, I will move that the convention adjourn *sine die* on or before 7 A. M., to-morrow.

The motion was agreed to.

The report of the committee was read, stating that the members were entitled to one hundred and forty one dollars each for forty-seven days, including to-morrow, the President being entitled to double pay, or two hundred and eighty-two dollars; and for mileage as follows:

	Miles.	Mileage.
The President, - - -	66	$9 90
Messrs. Ayres, - - -	260	39 00
Bunker, - - - - -	34	5 10
Clark, of Alamakee, -	600	90 00
Clarke, of Henry, - -	120	18 00
Clarke, of Johnson, -	000	00 00
Cotton, - - - - -	200	30 00
Day, - - - - - - -	328	49 20
Edwards, - - - - -	280	42 00
Ells, - - - - -	110	16 50
Emerson, - - - -	640	96 00

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	Miles.	Mileage.
Gibson,	680	102 00
Gillaspy,	170	25 50
Gower,	32	4 80
Gray,	66	9 90
Hall,	400	60 00
Harris,	260	39 00
Hollingsworth,	200	30 00
Johnston,	260	39 00
Marvin,	136	20 40
Palmer,	200	30 00
Parvin,	72	10 80
Patterson,	320	48 00
Peters,	720	108 00
Price,	1000	150 00
Robinson,	400	60 00
Scott,	720	108 00
Seely,	360	54 00
Skiff,	180	27 00
Solomon,	600	90 00
Todhunter,	320	48 00
Traer,	100	15 00
Warren,	640	96 00
Wilson,	110	16 50
Winchester,	240	36 00
Young,	200	30 00

The report concluded with the following resolution:

"*Resolved*, That the *per diem* and mileage of members, as set forth in the annexed statement, be approved, and a certificate thereof, signed by the President and attested by the Secretary, be delivered to the Auditor of state."

Upon the resolution—

Mr. CLARKE, of Johnson, called for the yeas and nays, which were ordered.

The question being taken by yeas and nays, the resolution was adopted—yeas 18, nays 16, as follows:

Yeas—The President, Messrs. Ayres, Clark of Alamakee, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Scott, Seely, and Warren.

Nays—Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Skiff, Todhunter, Traer, Wilson, Winchester and Young.

Mr. PARVIN, when his name was called, said: I consider the vote of yesterday as taking all the responsibility of this report and statement off of the committee and off of the convention; and with this understanding, I vote 'aye.'

Cost of Newspapers.

Mr. JOHNSTON, from the committee on expenditures reported a statement that the amount of five hundred and eleven dollars and seventy-five cents was due to the proprietors of the several newspapers named, for subscriptions of members under the order of the convention. The daily papers are allowed one dollars and twenty-five cents, and the weeklies fifty cents, during the session of the convention. In connection therewith, he reported the following resolution:

"*Resolved*, That the allowances made in the statement be approved, and a certificate of the same, signed by the President and attested by the secretary, be delivered to the auditor of state."

Copy of Debates for Editors.

Mr. HALL offered the following resolution:

"*Resolved*, That one copy of the journal of the debates of this convention be presented to each of the editors of newspapers and periodicals published in this state, and that the officer distributing said journals be required to deliver the same."

Mr. WILSON. I hope that resolution will not be adopted. It seems to me that we are distributing these pretty freely, and I fear there will be none left for our state library. I should prefer that the few there will be left should be left in the state library to be distributed by the legislature if thought best.

Mr. HALL. I believe that editors are the very first who ought to receive these debates. I should be willing to give them the preference over members themselves. If the press of this state, the very organs through whom our proceedings are to reach the mass of the people, are not entitled to some compliments at our hands, I know not who are.

Mr. WILSON. I simply object to the mode of their receiving them. I expect to provide both the papers in my county with copies from the number which I shall receive in the distribution; and I think it would be better that each member should supply his own district, than to appropriate more. I have no doubt that the members generally will supply the newspapers throughout the state with copies.

Mr. GILLASPY. I suppose the newspapers will be supplied by the members, and that they will publish an account of what we have done, not for our benefit, but for the benefit of their subscribers. When a question of this importance comes up in the state of Iowa, they will always put it in their papers. I employed Mr. Bates, our assistant secretary to make me a copy of the constitution for the sole purpose of taking home to give to the paper in my county. And we have this morning provided for the printing of the entire constitution so that any member can take it home with him to-morrow morning. I see no necessity for this resolution, and I hope it will not pass.

Mr. HALL. I hope it will pass, and I call for the yeas and nays upon it. I want to know whether the members of the convention are willing to pay this discourtesy to the press of the state. I want to see who they are who are unwilling to show the press of our state this poor compliment.

Mr. TODHUNTER. I would inquire of the gentleman from Des Moines, [Mr. Hall,] how many editors there are in the State?

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Mr. HALL. I do not know; the more the better.

Mr. TODHUNTER. I am inclined to think that we have already provided for distributing more copies than we should have done, and that this resolution would eat up all the rest, so that none will be left after the distribution. We have two presses in the district which I represent, and I have sent to them both copies of these slips, regularly. They have them as far as we have gone, and I intend to continue to send them that they may finally have the complete volume. I have also furnished a copy to each one of our four county judges, requesting them to keep them on file until this whole matter can be arranged, and the bound volumes distributed. I hope the resolution will not pass. My friend from Jefferson, [Mr. Wilson,] has stated that he intends to furnish the editors of his district with copies. That is my own intention, just as soon as we can get them, I intend to furnish each press in my district with a bound copy. I think this will be a better arrangement than to take away the entire number intended to be placed in the hands of the State. I think that would be wrong. I oppose this motion, not for the purpose of gagging the press, but because members can better furnish the press from their own twenty copies, than to have them taken from the small number we shall have left after the distribution already provided for.

Mr. PARVIN. I agree pretty much with the gentleman who has just spoken, in my reasons for opposing this motion. There are two presses in the county I represent; and had I but three copies, I would give one copy to each press, and retain the other myself. This resolution, if adopted, will in my opinion, take every copy designed to be placed in the state library. They will all be swept away, and we shall not have a single copy there. After giving twenty copies to each member, I think it would be very bad poil cy to distribute all the rest so as not to leave a single copy in our state library. I am opposed to the resolution for that reason, and not because I think that the editors of the papers should not have copies furnished them, for I believe that they will all be supplied without this resolution.

Mr. HALL. If the convention vote that the editors shall not have the debates, I will not give them any. The convention will do as they think best; but if they are not willing to pay that compliment to the press, I want to know it. I think that the press are entitled to this compliment at the hands of the convention; and if it is necessary the requisite number can be deducted from the copies furnished to members.

Mr. GRAY. I have already furnished the two papers published in my county with these slips; and this resolution makes it imperative to furnish to the same persons additional copies. I think that would be unnecessary; and I shall vote against the resolution.

The question being then taken, by yeas and nays, the resolution was rejected; yeas 15, nays 16, as follows:

Yeas—The President, Messrs. Emerson, Gower, Hall, Harris, Johnston, Marvin, Palmer, Patterson, Peters, Price, Scott, Solomon, Truer and Warren.

Nays—Messrs. Ayres, Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Gibson, Gillaspy, Gray, Hollingsworth, Parvin, Seely, Skiff, Todhunter, Wilson and Young.

As their names were called, several members explained the reasons for their votes, as follows:

Mr. CLARKE, of Johnson. I have been an editor many years, and am always disposed to favor the editors; but I do not know how many copies of the debates have been ordered to be distributed under the resolution already passed; I do not know whether we shall have enough left for this; and I do not know how many editors there are in the State. I am compelled to vote against this resolution; but I certainly mean no disrespect to the editors of our State.

Mr. CLARKE, of Henry. I intend to supply the editors in my district.

Mr. CLARK, of Alamakee. I intend to supply; the editors in mine.

Mr. GOWER. I presume it will do some good, and the press would better have them.

Mr. HARRIS. There is no press in my part of the country, and I am really at a loss how to vote. I will vote for the resolution.

Mr. PALMER inquired whether the resolution would furnish one editor of each paper, or each of the editors of each paper with a copy, and being informed by Mr. Hall that it would furnish only one to each paper, voted—aye.

Mr. PATTERSON. I intended to supply the editors in my part of the county, but considering this as a compliment to the editors of our State I will vote—aye.

The vote was announced—yeas 15, nays 16—and the resolution was declared to be rejected.

Mr. CLARKE, of Henry. I should like to make some inquiry with regard to that. I should like to know how many copies would be left after we have furnished all those for whom we have already provided. This seems to be a matter, in the estimation of many of the members, of compliment to the press, and if we have a sufficient number of copies left, I am willing to change my vote.

Mr. SKIFF. I have been to see the printers in relation to the printing of the constitution today, and they say that if they can get all of it into their hands at once, or very soon, they can have them ready for us to-morrow morning. I hope the convention will proceed with the third reading of the constitution before they do anything else, and after we get that into the printer's hands we can decide these other questions.

Mr. GIBSON. One word in relation to the vote just taken. It was not from any hostility

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to the printers that I voted against this resolution; and I suppose that many who voted with me did so for reasons similar to my own. But learning that it will be a hardship to several members to supply all the editors of their districts, I am willing to change my vote, and vote —aye.

Mr. CLARK, of Alamakee. I would suggest that the resolution be modified, so as to request each member of the convention to furnish a copy of the debates to each editor in his district.

Mr. HALL. That would be a poor compliment to the editors, or to ourselves, and would operate very unequally. I will donate all my copies rather than that the press should be gagged.

Mr. CLARKE, of Henry. I will change my vote to—aye.

Leave being granted, the changes were made and the resolution was agreed to; yeas 17, nays 14.

Thanks to T. J. Saunders—Secretary.

Mr. HARRIS. I wish to offer a resolution of compliment to one of the officers of this convention, which I think he specially deserves, and in doing this, I disclaim any intention by implication to censure the others:

"*Resolved*, That the special and particular thanks of this convention be tendered to T. J. Saunders for the very able and faithful manner in which he has discharged his duties as Secretary of this convention, and for the kind and gentlemanly manner in which he has demeaned himself towards the members of this convention."

The resolution was unanimously agreed to.

Mr. PALMER. I understood from the remarks of the gentleman from Jasper [Mr. Skiff], that the printing of the constitution could not be commenced until we had finished it. I would inquire whether the articles upon which we have already passed, could not be put at once into the hands of the printer? I suppose we shall not change them materially.

Mr. SKIFF. That has been done; but they will require more copy to keep all the compositors employed to advantage.

Education and Schools.

Mr. CLARKE, of Henry, from committee on revision, reported back to the convention the article upon education and schools, which was read the third time.

Several verbal amendments were made without debate.

Mr. CLARKE, of Henry. Section eleven reads as follows:

"The State University shall consist of a single institution, and the university fund shall be applied to that institution, and no other."

It strikes me that it is an absurdity to say that the State University shall consist of a single institution. I suppose the object was to prevent the establishment of branches in other parts of the State. But the meaning of the word, as defined by Webster, is "an assemblage of colleges established in any place, with professors for instructing students in the sciences and other branches of learning, and where degrees are conferred. A university is properly a universal school, in which are taught all branches of learning, or the four faculties of theology—medicine, law, and the sciences and arts." It is in fact a collection of colleges; and it seems to me that we can reach the object better by some other phraseology than to determine that it shall be a single institution, when it must be in fact a collection of institutions at one place.

Mr. PALMER. I suppose the object was to prevent the establishment of branches. Perhaps it would be better to insert after "institution," the words, "without any branch."

Subsequently, after consultation, the section was amended so as to read:

"Sec. 11. The State University shall be established at one place, without branches at any other place," &c.

Mr. WILSON. I wish to call the attention of members to an incongruity between the language in sections eight and fourteen, which I will read:

"Sec. 8. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other institutions of learning, that are instituted, to receive aid from the school or university fund of this State; *Provided*, that all acts, rules, and regulations of said Board may be altered, amended, or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Education."

"Sec. 14. A majority of the Board shall constitute a quorum for the transaction of business; *Provided*, no rule, regulation, or law, for the regulation and government of the school or educational system shall pass without the concurrence of a majority of all the members of the Board," &c.

I would move to make the latter conform to the previous section, so as to read, "government of common schools or other institutions of learning," &c.

Mr. HALL. I would suggest that the phrase "educational institutions," would be better in both places.

Mr. GRAY. That will read, "educational institutions that are instituted." Cannot we do without that word?

Mr. HALL. It will not do. There will be a great many private institutions over which the Board will have no control whatever. I do not like the repetition, and tried to find another word, but did not succeed. It means those in-

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stitutions which are instituted to receive this fund. Those that do not receive it, do not come under the control of the Board at all.

Mr. WILSON accepted Mr. Hall's suggestion, and—

The amendment, as modified, was agreed to.

Mr. WILSON. I wish to suggest that all the abreviations and figures used in the constitution should be written out in full. We have passed by several without making the amendment. I hope we shall agree to dispense with all the abreviations in the whole instrument.

The PRESIDENT. That will be done; and the Chair will call the attention of the committee on printing to this matter.

Mr. SKIFF. I will say that this cannot very well be done in the copy to be furnished us in the morning. The offices will have to combine, and the type does not correspond, so that it will have to be re-set hereafter. It will be necessary to abbreviate as much as possible, to have the constitution completed in so short a space of time.

The PRESIDENT. The suggestion will be attended to by the enrolling clerk, and in the official publication of the constitution.

The question was then stated to be upon the passage of the article, which, as amended upon the second and third reading, is as follows:

Article 9.—*Education and Schools.*

Section 1. The educational interest of the State, to include Common Schools, and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

Sec. 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been one year a citizen of the State.

Sec. 3. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the Board shall be chosen every two years thereafter.

Sec. 4. The first session of the Board of Education shall be held at the Seat of Government, on the first Monday of December, after their election; after which the General Assembly may fix the time and place of meeting.

Sec. 5. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two thirds of the Board, the Governor may order a special session.

Sec. 6. The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly.

Sec. 7. All rules and regulations made by the Board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the Board, and when so passed, published, and distributed, they shall have the force and effect of law.

Sec. 8. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other educational institutions, that are instituted to receive aid from the School or University fund of this State; but all acts, rules, and regulations of said Board may be altered, amended, or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Educatian.

Sec. 9. The Governor of the State shall be, *ex officio*, a member of said Board.

Sec. 10. The Board shall have no power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the General Assembly.

Sec. 11. The State University shall be established at one place, without branches at any other place, and the University fund shall be applied to that institution, and no other.

Sec. 12. The members of the Board of Education shall provide for the education of all the youths of the State, through a system of common schools. And such school shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund.

Sec. 13. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

Sec. 14. A majority of the Board shall constitute a quorum for the transaction of business; but no rule, regulation, or law, for the regulation and government of common schools, or other educational institutions, shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Sec. 15. At any time after the year 1863, the General Assembly shall have power to abolish or

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re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

School Funds and School Lands.

Section 1. The educational and school funds and lands shall be under the control and management of the General Assembly of this State.

Sec. 2. The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Sec. 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Sec. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall, from time to time, provide.

Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of the University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Sec. 6. The financial agents of school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law.

Sec. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths between the age of five and twenty-one years, in such manner as may be provided by the General Assembly.

The question being taken, by yeas and nays, the article was passed; yeas 23, nays 8, as follows:

Yeas—The President, Messrs. Ayres, Edwards, Ells, Emerson, Gibson, Gillaspy, Gower, Hall, Harris, Hollingsworth, Johnston, Marvin, Palmer, Parvin, Patterson, Peters, Price, Seely, Skiff, Solomon, Todhunter and Warren.

Nays — Messrs. Bunker, Clarke of Henry, Clarke of Johnson, Gray, Traer, Wilson, Winchester and Young.

Amendments to the Constitution.

Mr. CLARKE, of Henry, from the committee on revision, reported back to the convention, the article on amendments to the constitution, which was read the third time as follows:

Article 10.—*Amendments to the Constitution.*

Section 1. Any amendment or amendments to this constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people in such manner, and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this State.

Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for and against each of such amendments separately.

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Sec. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the General Assembly may, by law provide, the question, "Shall there be a convention to revise the constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such convention.

Mr. WILSON. I desire to make one suggestion in regard to this article. It may be an impossibility to get a convention under that third section, as it now stands. It provides that when the question of holding a constitutional convention is submitted to them—"in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, &c." If there had been a provision like that in the present constitution, this convention would never have met. It was not a majority of the voters of the State that voted in favor of calling this convention, but a majority of those who voted for or against the convention. I suggest, therefore, that this third section be amended by inserting after the words "voting at such election," the words "for and against such proposition;" so that portion of the section will read:

"And in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such convention."

Mr. HARRIS. I must object to that amendment. I think there is more danger in having conventions, than in not having them.

Mr. WILSON. I will simply say this; there can be no doubt in the world that the people of this state desired this convention: that such was the desire of a large majority of the electors of this state. But they were careless, and many of them did not vote at all upon the proposition to call this convention, and had there been a provision in the old constitution similar to this one, by being thus careless and neglecting to vote, they would have prevented the majority of the people from having this convention, which there is no question they desired.

Mr. HARRIS. If they lose their convention once on account of this carelessness, they will be likely to be more careful the next time.

Mr. WILSON. If there is objection to the amendment, it cannot be made, and I do not feel like asking a recommitment of this article to the standing committee, in order to have this amendment made, though I think it should be so modified.

Mr. HARRIS. We have had this question up before in relation to another matter. I was opposed to this change then, and I certainly cannot consent to it now.

Mr. MARVIN. I can hardly imagine how we can judge of the majority, unless we take the majority of the votes given for and against the proposition to call a convention.

Mr. WILSON. There may be state officers to be elected, and it will be construed that a majority of the votes for the highest candidates, shall be the number to decide the vote on the proposition to call a convention. Suppose for instance, that at the same election, there are two candidates for the office of governor, the aggregate number of votes for governor will decide the question of a convention, provided the votes for governor exceed those cast for or against the call of a convention. If the aggregate number of votes for and against the convention should be greater than the aggregate number of votes for governor, then that would control the question of a convention. It was to get rid of the difficulty that might arise in such cases, that I suggested the propriety of this amendment.

Mr. CLARKE, of Henry. I hope the gentleman from Appanoose [Mr. Harris] will withdraw his objection to this amendment; it is clearly right and just.

Mr. HARRIS. I think not, or I should not make the objection. It is admitted here that this convention was called by a minority of the voters of this state, and another convention might be called in the same way. The gentleman from Jefferson [Mr. Wilson] says that the voters were careless and did not vote upon the proposition for the call of a convention. If that was so, then it shows that they were indifferent, and that there was no great public demand for a convention.

There is no difficulty in finding out the whole number of votes cast at any election, because the ballot box of every election precint shows the number of votes cast. I want to have a majority of all the voters in the state vote in favor of a convention, before another shall be called.

Mr. WILSON. A great many persons might go to the polls on that day, who actually would not know that they were called upon to vote for or against a convention to revise the constitution. Many persons in the state did not know that at the last election. It seems to me that it would be but just to the people of the state that this alteration should be made.

Mr. HALL. I am opposed to having the change made in this section that has been suggested. I think it is better as it is. The assertion has been repeatedly made upon this floor that a majority of the people of this state were in favor of calling this convention. I doubt that very much.

Mr. SOLOMON. So do I.

Mr. HALL. That a majority of the people of this state were in favor of having some amendments made to their constitution, I do not doubt.

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But that they were in favor of having a convention called, at the time it was called, I do not believe. I think that many who are in favor of some amendments being made, voted against having a convention, because they did not want it at that time. I believe that when there is a necessity sufficient to justify the calling of a convention to revise this constitution, we ought not to be afraid to ask a majority of the voters of this state to say so. We ought not to provide for the calling of a convention by a minority of the voters of the state. Such a course is not exactly in accordance with my ideas of democracy. I am opposed to this change. I cannot consider as a good reason for it, that the minority otherwise may not have an opportunity to call a convention.

Mr. HARRIS. While I myself voted for the calling of this convention, I represent a constituency that voted very largely against it. They were opposed to a convention being called in this way. They insisted that a majority of all the voters of the state should be required to call a convention, and they were not satisfied when they found that it had been called by a minority. And they would not be satisfied with the change proposed here.

Mr. CLARKE, of Henry. I hope a motion to recommit this article will be made and carried. The principle is most obviously a just one, that every candidate before the people should stand upon his own merits, and be elected or defeated by the majority of the votes cast for or against him alone, and that is the principle that I think we should establish in this case. It would be thought ridiculous to propose and place a provision in the constitution, that when a man was up for any office, if he received a vote equal to a majority of all the votes cast for and against some other man who was running for some other office at the same election, he should be elected. That would be a departure from all the principles of a constitution.

Mr. WILSON. In order to test this matter, I move that the article on amendments to the constitution be recommitted to the standing committee on that subject, with instructions to insert in the third section of said article, after the words "voting at such election," the words "for and against such proposition," and to report the same immediately to the convention.

Mr. HALL. I hope this motion will not prevail. This section was fully discussed when this article was upon its second reading, and it passed in its present shape. I am opposed to thus giving the minority the right to govern the majority. As to the difficulty suggested here, the legislature can always obviate that by calling a special election to decide the question of having a convention.

Mr. WILSON. The difficulty cannot be obviated in that way, for we have provided here that this question shall be submitted at a general election, and that being a constitutional requirement, the legislature have no power to submit it at a special election. We have provided already in the article on corporations, in regard to the submission of banking laws to the people, that they shall be decided by a majority of the votes cast for and against them, not by a majority of all the votes cast at the election at which they may be submitted to the people.

The question was upon the motion to re-commit, with instructions.

Upon this motion—

Mr. HALL called for the yeas and nays, and they were accordingly ordered.

The question being then taken, by yeas and nays, the motion was agreed to; yeas 18, nays 15, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Ells, Gower, Gray, Hollingsworth, Marvin, Scott, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Edwards, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Seely and Solomon.

The article on amendments to the constitution was accordingly re-committed to the standing committee upon that subject, with instructions to so amend section three as to require that the question of calling a convention to revise the constitution, shall be decided by a majority of the votes cast for and against such proposition.

Immediately thereafter—

Mr. WARREN, from the committee on amendments to the constitution, to which had been recommitted the article upon that subject, with instructions, reported the same back to the convention, and recommended the adoption of the following amendment:

To insert in section three, after the words "voting at such election" the words "for and against such proposition;" so that the section would read—

"At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the General Assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election *for and against such proposition*, shall decide in favor of a Convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention."

Mr. GIBSON. Being a member of the committee on amendments to the constitution, I deem it due to myself to state that I do not concur in the report just made by the majority of that committee.

The question was upon agreeing to the amendment reported by the committee.

Upon this question—

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Mr. HARRIS called for the yeas and nays, and they were ordered accordingly.

The question being then taken, by yeas and nays, the amendment was adopted; yeas 18, nays 14, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Ells, Gower, Gray, Hollingsworth, Marvin, Scott, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Parvin, Patterson, Peters, Price, Seely and Solomon.

No other amendment being offered—

The question was—shall this article pass?

Upon this question—

The yeas and nays were called, and ordered.

The question being then taken, by yeas and nays, upon the passage of the article on amendments to the constitution, it was agreed to; yeas 21, nays 12, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Solomon, Todhunter, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Emerson, Gibson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price and Winchester.

Miscellaneous.

Mr. CLARKE, of Henry, from the committee of revision, reported back to the convention the article on miscellaneous subjects, which was read the third time, as follows:

Article 11.—*Miscellaneous.*

Section. 1. The jurisdiction of Justices of the Peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to any real estate may arise,) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

Sec. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that amount; *Provided, however*, that the county of Worth, and the counties west of it, on the Minnesota line, may be organized without additional territory.

Sec. 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding five per centum on the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness.

Sec. 4. The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly.

Sec. 5. Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

Sec. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.

Sec. 7. The General Assembly shall not locate any of the public lands, which have been, or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

Mr. WILSON. I would suggest that the word "amount," in the sentence "nor shall the territory of any organized county be reduced below that amount," should be changed to the word "area."

Mr. PARVIN. I think I shall object to the word "area." I prefer the word "amount" to "area." If there is a change, let it be to substitute the word "number" for "amount."

The PRESIDENT. The language of the old constitution, where the word "contents" is used, has been criticized very much. The opinion was that the word "area" should be used.

Mr. PARVIN. This word "amount" refers to the number of square miles in any county—four hundred and thirty-two.

Mr. WILSON. I think the number of square miles is given simply to determine the *area* of the county.

Mr. PARVIN. I will withdraw my objection.

The amendment was accordingly made.

Mr. WILSON. I would also suggest that the words, "Provided, however, that," be stricken out, and the word "except" be inserted in their stead; and also that the word "which" be inserted before the words, "may be organized," so that that portion of the section would read, "except the county of Worth, and the counties west of it, on the Minnesota line, which may be organized without additional territory."

Mr. CLARKE, of Johnson. I think that, as a general thing, where an exception is introduced, it is better to introduce it with a proviso.

Mr. WILSON. I think the gentleman from Johnson [Mr. Clarke], will find that in very few constitutions is the word "provided" used to

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the extent that we have used it here. I do not think it is a good phrase for a constitution. The word "except" covers the whole ground, and leaves the provision in better shape.

The Secretary stated that the word "but" was substituted for the words "provided, however, that," in the copy of the article which he read.

Mr. CLARKE, of Johnson. I prefer the word "except" to the word "but," and the word "provided" to either. If I cannot get that word inserted here, I will agree to the amendment suggested by the gentleman from Jefferson [Mr. Wilson.]

The amendment was accordingly made.

The PRESIDENT. The Chair would call the attention of the convention to the fourth section, which reads: "The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly," and inquire if the word "Congress" there necessarily implies the government of the United States?

Mr. CLARKE, of Henry. I would suggest to insert after the word "Congress," the words, "of the United States."

Mr. CLARK, of Alamakee. I think it would be fetching an argument a great ways for a court to undertake to apply the language used here to anything but the Congress of the United States.

Mr. WILSON. That is the language used in the constitution of the United States in connection with the subject of changing the boundaries of old States, or creating new States within the territory of others. The section in the constitution of the United States upon that subject reads as follows:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or created within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress."

The PRESIDENT. The language here used, then, is sufficiently guarded.

Mr. CLARKE, of Johnson. Would it not be well to attach the article locating the seat of government and State University to this as an additional section, instead of having it a separate article?

Mr. GILLASPY. I think as it has already been passed as a separate article, it would be better to let it remain as it is.

No other amendments being offered—

The question was upon the passage of the article.

Upon this question—

The yeas and nays were called and ordered.

The question being then taken, by yeas and nays, upon the passage of the article, it was agreed to; yeas 26, nays 4, as follows:

Yeas—The President, Messrs. Ayres, Bunker, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hall, Hollingsworth, Johnston, Marvin, Palmer, Parvin Patterson, Price, Scott, Seely, Solomon, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Emerson, Gibson, Gillaspy and Harris.

Thanks to the Reporters of the Convention.

Mr. CLARKE, of Johnson, offered the following resolution:

"*Resolved*, That the thanks of this convention be tendered to W. Blair Lord, and Charles B. Collar and Henry M. Parkhurst, his associates, for the accurate and impartial manner in which they have reported the debates and proceedings of this convention."

The resolution was adopted by acclamation.

Thanks to the Officers.

Mr. HALL offered the following resolution:

"*Resolved*, That the thanks of this convention are hereby tendered to the different officers of this convention, for the faithful, impartial and courteous manner in which they have discharged the duties pertaining to their respective offices."

The resolution was adopted.

Mr. WINCHESTER. I would ask leave of absence of this convention, for the remainder of the session. My reason for making this request is, that if I do not start to-day at noon, I cannot start for home this week by any public conveyance.

No objection was made, and leave was accordingly granted.

Schedule.

Mr. CLARKE, of Henry, from the committee on revision, reported back to the convention the article on the Schedule, which was read the third time as follows:

Article 12.—*Schedule.*

Section 1. This Constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The General Assembly shall pass all laws necessary to carry this Constitution into effect.

Sec. 2. All laws now in force and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

Sec. 3. All indictments, prosecutions, suits, pleas, plaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals,

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writs of error, certiorari, and injunctions shall be carried on in the several courts, in the same manner as now provided by law, and all offenses, misdemeanors and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial and punishment, in the same manner as they would have been had not this constitution been made.

Sec. 4. All fines, penalties or forfeitures due, or to become due, or accruing to the State, or to any county therein, or to the school fund, shall inure to the State, county, or school fund, in the manner prescribed by law.

Sec. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

Sec. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the Governor and Lieutenant Governor. There shall also be elected at such election, the successors of such State Senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the House of Representatives, who shall be elected in accordance with the act of apportionment, enacted by the session of the General Assembly, which commenced on the first Monday of December, one thousand eight hundred and fifty-six.

Sec. 7. The first election for Secretary, Auditor, and Treasurer of State, Attorney General, District Judges, members of the Board of Education, District Attorneys, members of Congress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, (except the Superintendent of Public Instruction,) and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except Prosecuting Attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight; Provided, that the time for which any District Judge or any other State or county officer, elected at the April election in one thousand eight hundred and fifty-eight, shall not extend beyond the time fixed for filling like offices at the October election.

Sec. 8. The first election for Judges of the Supreme Court, and such county officers as shall be elected in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

Sec. 9. The first regular session of the General Assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

Sec. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

Sec. 11. Every person elected by popular vote, by a vote of the General Assembly, or who may hold office by Executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed, to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office after the taking effect of this constitution, for a longer period than the term of such office, in this constitution prescribed.

Sec. 12. The General Assembly, at the first session under this constitution, shall district the State into eleven Judicial Districts, for District Court purposes; and shall also provide for the apportionment of the members of the General Assembly, in accordance with the provisions of this constitution.

Sec. 13. The foregoing constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New Constitution—Yes." Those against the constitution, "New Constitution—No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the Code, and abstracts shall be forwarded to the Secretary of State, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the Governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

Sec. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "Right of Suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in the manner following, viz:

A separate ballot may be given by every person having a right to vote at such election, to be deposited in a separate box; and those given for the adoption of such proposition shall have the words "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' Yes." And those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' No." And if at said election the number of ballots cast in favor of said proposition,

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shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article and be no part of this constitution.

Sec. 15. Whenever a portion of the citizens of Lee county deem it expedient to procure a division of said county, it shall be the duty of the General Assembly to make a law, by which the proposal to divide said county, (the metes and bounds of the proposed new county being set forth in said law,) shall be submitted to the voters of the county of Lee, at a general or special election; and the General Assembly shall prescribe in said law the mode for the proper organization of said new county, and they shall be organized under said law, provided the majority of the votes given on the question of division at said election shall be in favor of such proposed division.

Sec. 16. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this State.

Mr. EDWARDS. I would suggest an amendment of the phraseology of the fourteenth section; to strike out the words, "of this constitution," at the close of the section, and insert the word "thereof," so that it would read:

"And if at said election the number of ballots in favor of said proposition, shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article and be no part thereof."

Mr. WILSON. I think the amendment suggested by the gentleman from Lucas, [Mr. Edwards] should be adopted, so as to refer simply to the article on the right of suffrage. As the phraseology of the section now is, it would include the word "white" wherever it occurs in this constitution.

The amendment was agreed to.

Mr. TODHUNTER. I would like to have the gentleman from Lee [Mr. Johnston] consent to have the section in relation to Lee county stricken out of this article.

Mr. JOHNSTON. I must object to this being done. I will take this occasion to say a few words in relation to this matter. A number of gentlemen of this convention came to me this morning and told me that they voted for this section chiefly out of courtesy to the delegate from Lee county, but that they were fearful that this outside question might have a tendency to defeat this constitution; and they asked me to state to them what I thought about the matter. I said to them, as I now say to this convention, that I think it is possible that this provision would influence some votes against this constitution; to what extent, I do not know. I said to them further, that in view of what had taken place during the last canvass in the upper part of Lee county, and in view of the letters I had received since I have been here in this convention, I felt it to be my duty to present this matter to the convention, and vote for it here, although, as I stated yesterday, I was myself opposed to the division of the county. I desire members to look at this question for themselves. They are interested in the effect a provision of this kind would have upon the constitution, as well as myself. I hope the convention will act their own pleasure in regard to this subject. I intend to support this proposition, and to vote for it.

Mr. EDWARDS. On yesterday, when this question was presented to us, I felt disposed to accommodate the delegates from Lee county, and voted for it. But after more mature deliberation, I have become satisfied that it would be impolitic and unwise for us to include in this constitution a question of a purely local character. I therefore move to recommit this article to the standing committee on the schedule, with instructions to report the same back immediately to the convention, with an amendment to strike out this section.

The question being taken, the motion to recommit was agreed to.

Immediately thereafter—

Mr. TODHUNTER, from the committee on schedule, reported back to the convention the article which had just been recommitted to them, with a recommendation that the section in relation to the division of Lee county be stricken from said article.

The question being then taken, the recommendation of the committee was concurred in, and the section referred to accordingly stricken out.

No further amendments were offered.

The question was upon the passage of the article.

Upon this question—

Mr. GILLASPY called for the yeas and nays, and they were accordingly ordered.

The Secretary then proceeded to call the roll of members, upon the passage of the article on the schedule, and when he had reached the name of ——

Mr. GILLASPY—that gentleman rose and said:

As a member of the committee on the schedule, I rise for the purpose of asking the consent af the convention to enter a protest in writing against this article. I do this in behalf of myself and my friends upon this floor who agree with me in this matter. I will have the protest ready to be submitted to this convention by seven o'clock this evening.

Mr. WILSON. I must object to any such course of proceeding as this, and I will state my reasons: The majority of the committee on the schedule proposed a report—the same presented to the convention—and submitted that report to the gentleman from Wapello, [Mr. Gillaspy], and the gentleman from Delaware, [Mr. Peters.] They had time to examine it, and did examine it. And although they stated that they

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were not satisfied with it, they took no steps whatever toward preparing and bringing in a minority report. They have taken no steps up to this time to do so. When this article was first examined and considered by the convention, there were no steps taken to bring in a minority report. And for that reason I shall object to this protest being brought in here at this late day. The gentlemen might have taken the necessary steps in regard to this matter at the proper time. They might have presented a minority report here, and in that minority report they could have introduced all their objections to this majority report. But they have deemed best to hold back until the close of the session of the convention, and I therefore object to their protest going upon the record.

Mr. GILLASPY. I will offer the following as a protest against this majority report of the committee on the schedule:

"The undersigned protests against this report, for the following reasons:

"Because it suspends the great rights which this constitution is made to protect, while it repeals those which the present constitution grants.

"Because it refuses to trust the principles which it proclaims, and for more than two years practices a mere party peculation upon the rights of the majority of the people of this State.

"Because it most flagrantly violates the principles of our government, by endeavoring to throw the power of the government into the hands of the minority.

"Because, while the constitution admits the right of the people to have certain powers, it refuses for years the rights which it asserts."

Mr. EDWARDS. I rise to a point of order, and that is, that the gentleman has no right to bring a protest in here, while the call of the roll is being proceeded with.

The PRESIDENT. This will be received as a part of the explanation of the gentleman from Wapello, [Mr. Gillaspy], when called upon to vote.

Mr. GILLASPY. I offer this protest upon the part of the gentleman from Des Moines, [Mr. Hall] as well as myself. I desire to say, as a member of the committee on the schedule, that I shall be in favor of the adoption of the constitution we may make here, if it meets my views. I desire to see the constitution adopted, if it is fair and just in all its features and provisions. But I do protest against this article upon the schedule. I say it is the most unfair article that has been presented to this convention. If adopted, it will thwart the expectation of a large portion of my constituents, and of the people of this State, in my humble judgment.

The reason why I did not prepare and submit a minority report upon this article, was that I was satisfied—as this vote when placed upon the record will testify—that this article had to be passed anyhow, as it was. But I expected, at the proper time, that this convention would allow me to have my written protest placed upon the record.

Mr. HALL. I drew up the paper, which the gentleman from Wapello [Mr. Gillaspy,] has read as a protest, with the intention of presenting it, when my name was called, as my reasons for the vote I shall give upon this article.

Mr. WILSON. I wish to understand this matter. I presume this paper, or protest, or whatever it is to be called, will go into our debates, the same as other remarks of members, given in explanation of their votes, but not upon our journal. As I understand it, no speech or explanation goes upon our journal, though they are all included in the report of our debates. I have no objection to this appearing in our debates as a part of a speech.

Mr. PALMER. I understand that any member has a right to have his protest entered upon the journal.

Mr. JOHNSTON. I desire to say that I have not been consulted in regard to this protest, and did not know the contents of the paper until I heard it read. I do not commit myself to any course of policy that will force me to vote against this constitution, for I want to see the instrument we may prepare here, adopted by the people. I am opposed to some features contained in this schedule, and shall, therefore, for the present, content myself with voting against it.

Mr. TODHUNTER. I wish to say a few words, in connection with this affair, and the manner in which it has come up. As I understand, the only objection to this schedule is in relation to the manner in which this constitution takes effect, so far as our present State officers are concerned. I doubt the propriety, or policy even, in making a constitution of a State, of turning out a single officer. For that reason I took the view I did in regard to the lower house of the General Assembly, and the Senate. The members of the lower branch of the legislature have already filled the terms of office for which they were elected, or that it was intended or expected they would fill when they were elected. We say by this schedule, therefore, that they shall stand aside, and there shall be a new election for others in their places. As to the Senators, we say in this schedule, that those who have served for two sessions of the General Assembly shall stand aside, and others shall be elected in their stead.

On the other hand, however, we say that the Governor and Lieutenant Governor shall be elected next fall, which curtails the present term of the Governor about one year, or perhaps a little more. We say that the district judges shall continue in office a year from next October, and in that way we give the democratic party the same show in this matter that the other party has. We say that the present su-

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preme judges shall hold their offices until the year 1859. Those officers were all elected for a certain period. I doubt the propriety of turning out a single officer, until the term for which he was elected shall have transpired. Although we are making a new constitution, it should not take effect, so far as their terms of office are concerned, until they shall have expired. For these reasons I shall vote for this schedule as it now stands.

The Secretary then resumed the call of the roll, and proceeded until he had reached the name of——

Mr. WILSON—when that gentleman rose and said: I wish to submit an explanation here, inasmuch as this article has been called in question in a very grave manner, and very serious charges have been made, not only against a majority of the committee on the schedule, but against a majority of the members of this convention. And I wish, therefore, to state briefly my reasons for this article. In doing so, I shall have simply to state the reasons controlling the majority of the committee on the schedule in making this report, to which my name appears attached as a member of that committee.

There was some difficulty in the minds of the members of the committee, in arriving at the best course to be pursued in relation to the elections under this constitution, in the event it should be adopted by the people. The first impression among the majority of this body, seemed to be that it would be advisable to retain the present legislature. But when that proposition was introduced into this convention, it met with opposition, not only from the republicans, but I believe that it met with the universal opposition of the democratic members of this body. The reason which they held up here, and which they urged, and which operated to no little extent upon the minds of the majority of the committee on the schedule, was that the people wished and desired that the men who should meet together in the first general assembly under this constitution, should be fresh from the people, that they should be elected at an election, when the issues involved in this constitution could be fully and thoroughly canvassed.

Mr. PALMER. Why not provide then for the election of all the members of both the houses of the general assembly?

Mr. WILSON. I will inform the gentleman, as I go along. This schedule provides that the house of representatives, which, under our theory of government, is considered the popular branch of the general assembly, shall be all elected at the first election under this constitution, and that they, with the senate, shall hold their first session next winter. We also provide by this schedule that that portion of the senate elected in 1854 shall go out of office, and that their successors shall be elected next October. That will bring in fresh from the people, about one-half of the senate in our first general assembly under this constitution, who will be elected upon the issues presented by this constitution. The senators who were elected last August are retained, because they were elected at an election when the same issues were presented which led to the calling of this convention.

There is another reason for this, and that is that the members of the house of representatives of the last general assembly have already held the only session that it was contemplated by the people that they would hold when they were elected. The senators who were elected in August, 1854, have already held all the sessions it was contemplated they should hold when they were elected. Whereas, the senators who were elected last August, have held but one session: and they are besides fresh from the people, and were elected to hold their offices for two years. And it was but right and proper, we thought, that they should come back and hold another session next winter. And another reason for retaining these senators is, that in the more deliberative branch of the general assembly we secure one-half of the body with some experience in legislation.

Another reason for this provision is this: If we call the present general assembly together next winter, in accordance with the proposition of the gentleman from Des Moines [Mr. Hall] and his friends, we shall be compelled to call another general assembly together the year following, which we found upon calculation, would cost the people of the state from one hundred and twenty-five to one hundred and fifty thousand dollars, and that we thought was a strong argument in favor of the plan we have decided to adopt. An argument of one hundred and twenty-five or one hundred and fifty thousand dollars is a strong one, and one which the people will feel; and their opinions in this matter ought to be consulted. That is one reason why we have concluded to call a new election next October.

Another reason is this: There was great dissatisfaction felt in this body in relation to the basis of apportionment adopted by this convention. And for the purpose of meeting that dissatisfaction the difficulty and the time that would necessarily be consumed in endeavoring to provide for a new apportionment among the several counties in this state, the committee concluded to adopt the apportionment passed by the last general assembly. In doing this they considered it a kind of compromise between the opponents of the basis of apportionment established in this constitution, and the old basis of apportionment, for it throws off the constitutional apportionment for two years. This will give the new counties of the north, west and south, time in which to be built up, and to get the proper ratio to entitle them to representatives; and at the same time it will guard the medium sized counties from the hardships that will necessarily be worked upon them by the apportionment of representation in this constitution.

Mr. HARRIS. Why was the governor turned out, and not the rest of the state officers?

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Mr. WILSON. The committee had determined, and thought it was best, to so arrange the tickets as to divide the candidates in about equal proportion for the elections to be held upon different years. And inasmuch as the governor was to execute the new code of laws which would be brought in by the new general assembly, we concluded that it was best to bring in the executive branch of the government, so far as the chief of that branch was concerned, with the legislative branch of the government, and thereby have them both fresh from the people.

Mr. HARRIS. Was it not generally understood that if Governor Grimes was not put out of office by this constitution, he was expected to resign?

Mr. WILSON. I do not know about that. If it was so, then so much the better. If he intends to resign, then we have acted wisely in providing for an election next October.

The reasons for providing for the election of lieutenant governor at this first election are that he is a new officer, and is the president of the senate, and should be elected to preside over the first general assembly under this constitution.

By pursuing this course, we find that at the next October election we have to elect the members of the general assembly, the governor and the lieutenant governor. At the election in October 1858, we have to elect the secretary, auditor and treasurer of state, attorney general, district judges, district attorneys, members of congress, board of education, and such state officers as will be elected at the next April election. That will give a ticket of about equal size to each year. When we come to put in the first ticket, the judges of the supreme court who are to be elected in 1859, we will give tickets to each year of about equal proportions. For in one year we will have the election of supreme judges, members of the general assembly, governor and lieutenant governor, and in the other the remainder of the state officers, and our congressmen. We concluded that that was the best division of the tickets, inasmuch as we were compelled to have elections in these different years.

In regard to our congressmen, we must elect them in 1858, or, if we did not pursue this method of dividing our tickets, we would have to call an election in 1858 expressly for congressmen and such county officers as could be elected at that time, or if we did not do that, call an election in 1859, or put it off until October, 1859, and have no congressmen from the fourth of March of 1859, until the second Tuesday in the following October. For these reasons, the majority of the committee concluded to bring in this report, providing for three different elections.

I think that when we come to take into consideration the history of the democratic party, in relation to apportionment, the objection, which is presented here against this scheme, comes with a very bad grace. When we remember, too, that that party in the apportionment of senators under which the senators elected in 1854 were chosen, tacked on some eight or ten—I do not know but eleven counties—in the north to Dubuque, so that Dubuque county could override the people of all those counties, until Judge Hamilton was elected, and then struck all off but Delaware county, I think this comes with bad grace from that party.

There are some other things to be considered in connection with this matter, before they can bring this charge in justice against us, even supposing that we do have any advantage under this apportionment. For instance, we find that in the spring session of 1852, when the whig party was in existence, the whig counties would be entirely over-balanced in this way; for example Pottawatamie county with a population of three thousand three hundred, would be allowed two representatives, while the ratio for Warren county would be four thousand.

Mr. HARRIS. If the gentleman from Jefferson, [Mr. Wilson, is allowed to make a speech upon that subject, I should also like to be heard upon it, as I was a member of that legislature myself.

Mr. WILSON. I wish merely to rebut the charges which have been brought against the majority of this convention, and of the committee of which I am a member.

That apportionment was made at that time, as will ppear by the records of our state government. The ratio of population at that time was some four thousand. Yet the counties north of Pottawatamie were assigned one representative, although there were no returns at all of any population there. It was well known that there were very few inhabitants in those counties, and yet they were given a representative.

There is another thing I would refer to. In the session of 1854–55, the democratic majority in the senate kept Mr. Brian, from the fourth district, in his seat until the apportionment was passed through, and that apportionment was intended to give them a judge, as I have before shown. The whig, republican and fusion members in the house and senate were compelled to take that apportionment, or continue the old one, and they took that in preference to the old one, because it was a little better even than that.

Now I do not know what advantage either party may gain under the apportionment of the last general assembly. We have had arguments from the democratic side of this convention in favor of the uprightness and general good conduct of the general assembly. These men were acting under the obligation of the oath they had taken, and I presume they discharged their duty under that oath. They have presented us with a basis of apportionment, and those who voted for that apportionment were the representatives of a majority of the people of this State. We have adopted that apportionment, simply in order that we may save time. We have called

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a session of the general assembly next winter in order to save the people of this State about one hundred and fifty thousand dollars, which would be the expense to them of calling a session of the general assembly for 1858.

Now, Mr. President, for these reasons we concluded to adopt, and have presented this report. For these reasons we have supported it here. And for these reasons I shall continue to support it, believing that by so doing I shall discharge my duty to the people of this state, and believing that I can go home and my constituents will endorse my action here, and that the people of this state will endorse the action of this convention in regard to this schedule.

We have done the best we could, under the circumstances. We have endeavored to take into consideration the interests of the whole State. Acting under the oaths we have taken, by which we are bound to faithfully discharge our duty to the state, as members of this convention, and with those oaths before us, we have endeavored to discharge our duty. We have presented this report, and we are prepared to stand by it, and to vote for it, and to send it to the people for their action.

The Secretary concluded the call of the roll, and announced the result to be, yeas 20, nays 12, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gower, Gray, Hollingsworth, Marvin, Parvin, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson and Young.

Nays—Messrs. Ayres, Emerson, Gilson, Gillaspy, Hall, Harris, Johnston, Palmer, Patterson, Peters, Price and Solomon.

Mr. HALL. I wish to give notice that myself and others will, at the meeting of the convention this afternoon, present a protest against this schedule.

The PRESIDENT. The convention has now voted upon the constitution by its several articles, and the chair would suggest the propriety of voting upon the constitution as a whole.

Mr. TODHUNTER. I move that we now proceed to vote upon the constitution as a whole.

Mr. JOHNSTON. I would like to have some consultation with my friends upon this before I am called upon to give this vote. There are some things in this constitution that I like very much, while there are other things in it I do not like.

On motion of Mr. SKIFF—

The Convention then took a recess until 2 o'clock, P. M.

EVENING SESSION.

The Convention re-assembled at 2 o'clock P. M., and was called to order by the President.

Protest against the Schedule.

Mr. HALL. In pursuance of the notice I gave this morning, I wish to offer a protest against the schedule adopted by the convention, signed by several members of this body, and I ask that it may be spread upon the pages of the journal. I shall not, at this late stage of the convention, say one word by way of discussion. It is not my purpose, in presenting this protest, to get up a discussion; but I feel it to be my conscientious duty, so far as I am concerned, to put this protest upon record with the vote I have given.

The protest was then read as follows:

The undersigned, members of this convention, beg leave to present the following protest against certain provisions contained in the schedule, as passed by the majority of the convention:

Under the provisions of the schedule, the question of adopting the constitution will be submitted to the people for their approval or rejection on the first Monday of August A. D. 1857. If it is adopted, it becomes the supreme law of the State. The first election under it will be on the second Tuesday of October, 1857. With this we would be content. But the sixth, seventh, and eighth sections of the schedule come in, and completely discredit the first section, by denying to the constitution its authoritative character, in the important and primary matter of electing their representatives, and other officers of the State.

The constitution recognises, and gives to the people, the right to elect their supreme judges. The manner of electing those officers, under the present constitution, is condemned as wrong; yet although the constitution provides for a general election in 1857 and 1858, yet this right of the people, so unanimously conceded, is withheld until October 1859.

The constitution provides for the mode and manner of apportioning the State into representative districts. This manner is materially and radically different from the mode provided under the present constitution, and would be the supreme law of the State at the October election, 1857, if this schedule did not interpose a veto upon it.

In the place of allowing the wise and equitable mode provided by this constitution to govern the apportioning of the State into representative districts, this schedule interposes and adopts the apportionment made by the late General Assembly, and again denies to the constitution its supreme character. The apportionment in this manner adopted is grossly unjust, and in violation of the very first principles asserted in this constitution. It gives the power to a minority of nearly twenty thousand of the people of this State, to elect a majority of the representatives of the people. This convention then, by their action sanctions and adopts the principle that the first legislature, that shall assemble under this constitution, shall be elected by a minority of the people of the State.

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The undersigned would not complain of a reasonable delay in the passing from the old constitution to the new one. But where it is apparent that the proper time has been enlarged, and just and wise reforms are delayed and withheld, for mere partisan purposes and advantages, the undersigned cannot silently stand by and suffer the outrage to be consummated.

We, therefore, protest against the postponement of the elections of the supreme judges until October, 1859.

We protest against the election of the legislature under any other apportionment, except based upon the principles declared in the constitution.

We protest against continuing the apportionment law of the late General Assembly by constitutional adoption, because we know it to be an outrage upon the rights of the people, by turning over to the minority of the people the power of the government, which, upon the highest principles, belongs alone to the majority.

(Signed by) J. C. HALL,
D. P. PALMER.
A. HARRIS,
H. D. GIBSON,
WM. PATTERSON.
JOHN H. PETERS,
S. AYERS.

Mr. SCOTT. I hope this matter will not be discussed. I shall not object to the protest going upon the record, and I hope the convention will allow the majority of the committee on the schedule the right to put their statement upon the record also.

Mr. WILSON. I will add, in addition to the remarks submitted by the gentleman from Clayton, [Mr. Scott,] that while opposed to the protest which was offered this morning, while the yeas and nays were being called upon the report of the committee, upon what I deemed good and sufficient grounds, I still entertain the same objections to the protest now presented. I am perfectly willing, however, that that protest shall go upon the journal, provided the convention will grant leave to the majority of the committee on the schedule to place their answer to the protest also upon the journal. I desire that the people shall have both sides of the question. That is all I ask, and I see nothing unfair in such a request.

Mr. PARVIN. I have no objections to the protest going upon the journal, although it charges those who voted for the schedule as having acted for party purposes. I presume it is well known that it is not the kind of schedule a great many of us wanted. I voted for it because it was a kind of a compromise; and, therefore, I am not obnoxious to the charge that I voted for it from party motives. It was not the schedule I desired, and I voted for it almost under protest. I said, a long time ago, during the early part of the sessions of the convention, that we ought not to turn out any of the officers until the terms of their office had expired by law. The people, in electing those officers, elected them for a certain time; and because we have the right to make a new constitution, and remove these officers, I do not think it is right we should do so. I would have kept in all the officers until their terms of office had expired by law. The schedule we have adopted cuts off a number of them. It cuts off some of the judges of the supreme court.

Mr. HALL. I do not ask any gentleman, who voted for these three sections in the schedule, to believe a word of what is contained in the protest. We, who have attached our names to this paper, have done so from the desire to vindicate ourselves, and place ourselves right upon the record.

So far as I am concerned, if gentlemen desire to pursue the unusual and extraordinary course of presenting arguments in refutation of their own action, I have not a word to say. The majority can do as they please. But when gentlemen say to me that they have examined this matter, and that the apportionment they have made was not adopted for political purposes, I must confess that I have some slight scruples as to their sincerity, or else as to their sagacity. We all know that this apportionment gives the power to a minority of nearly twenty thousand of the people of this state to elect a majority of the legislature. Why this was done, is a question which these gentlemen will have to answer before the people of this state.

I can tell gentlemen for what purpose I think it was done. It is an apportionment for party purposes, carried to the very extreme, so as to provide for the election of United States Senator, which comes off in 1859. An equitable apportionment of the state would not give a majority of this convention quite as sure and certain success in that election, as it would if they took up this infamous project, got up by the late general assembly. There was no other plan they could devise, by which they could give to so large a minority of this state the control of this election.

But gentlemen say they have adopted this principle in order to prevent a second meeting of the legislature in 1859. I cannot see the force of that argument, when they continue the legislature and have a session in 1858 instead of 1859. Why should this legislature be elected under a law which the constitution itself repeals? Why do you say in the first article of the schedule that this law shall be supreme, and then afterwards go on and say it shall not be supreme until the legislature convene in 1859, and elect a United States Senator?

It is no trouble to district the state; any school-boy could do it, for all he has to do is to get the population, and then with the ratio which is fixed by the constitution, he could very easily make it. Why was not the apportionment for the election of the general assembly for 1859 made under this constitution, and not under the law of the late general assembly?

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Gentlemen may suggest a thousand excuses, but I think the reason is quite apparent, for adopting the provision here made. What I complain of is, the simple fact that the first legislature, which is to convene under this constitution, is to represent a large minority of the people of this state. Such is the fact, and I can demonstrate it by the apportionment bill.

As I said before, I do not wish to excite any discussion, but I wish simply to enter my protest, in regard to the action of the majority here, upon the journal.

Mr. WILSON. I wish to submit a few remarks upon this matter. When gentlemen enter upon a discussion of this kind, they ought to look over the entire field, and see whether they have everything right on their own side. This schedule provides that the successors of such state senators as were elected at the August election, 1854, and all the members of the house of representatives, shall be elected according to the apportionment now in existence. That apportionment was introduced into the assembly in 1854 and 1855 by the party to which the gentleman from Des Moines [Mr. Hall] belongs. Now what is the result of this apportionment? The result of it is, that every Republican member upon this floor, taking the average of population, represents fifteen thousand four hundred inhabitants, and every Democratic member represents but twelve thousand. And yet we propose to let that stand, and let the senate be elected under that apportionment. It does seem to me that there is nothing here of which the gentleman need complain.

But the gentleman says, that he feels the effect of this schedule, in regard to the election of United States Senator, which comes off in 1859. No doubt his party felt it in 1854 and in 1855, when the state Senate sought to prevent the election of a United States Senator by the legislature, and by their action afforded the majority in the United States Senate an excuse for throwing Mr. Harlan out of his seat. No doubt they felt it then, and were acting the part of wise, judicious and fair-minded men. But now they come in and say they feel the force of this apportionment, and say it is a minority rule.

The last election shows that the Republican party has a majority in this state, for they completely swept the field. And if there is to be an advantage either way to the parties, I ask, whether it is not right that the party, which has been the latest endorsed by the people of the state, should not have the advantage, which is to grow out of this apportionment? But I say here again, that in preparing this schedule, we did what we thought would best promote the interests of the state.

Gentlemen may complain, and say that we ought to make an apportionment under the constitution. I say that there is a law of apportionment in existence now, under which it is proper to elect; and it is the only law under which we can elect, unless we go to work and apportion the representatives of this State. I will give the reason why the committee did not see proper to provide for this apportionment under the constitution. I know where the shoe pinches. Gentlemen fear they will not be able to get the advantage which they hoped they would get. But when they come to read us lectures about honesty, fairness and propriety, in political action, it seems to me, in view of the political history of their party, that they should be the very last men to open their lips about such things. We know that whenever they have had the power, they have taken all the advantage they could get. This is a part of their political history, not only in the State governments, but in the national government. And yet, with all the history of their black doings in the past, they come here and charge the Republican party with unfairness and corruption in this matter. I am willing to let the history of the two parties go before the people. I am willing to let the reasons, which have already been, and which will hereafter be, given for the action of the committee, and the majority of the convention, go to the people. I have no fears that the people will repudiate their action.

It seems to me that the gentleman from Des Moines, [Mr. Hall]—I regret that he has left his seat—might find something in the political history of this State, as connected with the elections of this State, that ought to act as an estoppel upon his mouth, and prevent him forever from bringing such charges against men as he has made here.

I do hope that this convention will adjourn in good feeling among all its members; and I do hope that nothing will occur to impair that good feeling. I hope that we will all leave here united in our intentions to support this constitution. But I expect that war will be declared upon it; and I expect that that protest is the first step taken toward that declaration of war. But if it is to come, let it come. I have performed my duty, according to the dictates of my own judgment, and I can go back to the people, and ask them to indorse my action. If they refuse to indorse it, I shall cheerfully submit to their decision; but I have no fears of the action of the people in this respect.

Mr. HARRIS. I am very glad the gentleman from Jefferson [Mr. Wilson], has informed us that he is ready to submit to the will of the people, if they shall decide against him. There must be some consolation for him in that thought. I have something to say here, for the simple reason that I happen to be the only person here that was perhaps personally involved in one of these gerrymanderings of which the gentleman from Jefferson [Mr. Wilson] speaks, as having occurred in the former political history of this State.

I do think that the apportionment of the last legislature, upon which this convention has decided to act, was a very unfair one; the most unfair of any one that I have ever been called upon to investigate. It was not because of the

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apportionment, or the schedule which is here presented, that I came to that conclusion. I happened to have an opportunity to pay some little attention to the deliberations of the leg slature when that apportionment was under discussion. I happened to kn w something of the features of that apportionment, and the sort of determination that prompted the majority to put it through under the lash. Some gentlemen who led off in that matter were very free to confess that they had exhausted all their skill in attempting to find Democratic counties upon which they could tack large Republican majorities, for the purpose of disfranchising the majority. I repeat, that it was not since this schedule came before the convention that I came to the conclusions I have with reference to that apportionment.

I must say that I felt aggrieved, when the gentleman from Benton [Mr. Traer] brought forward the proposition he did, for I thought it subjected the convention to some extent, to the charge of endorsing the extraordinary conduct of the late legislature. Yet, notwithstanding I felt all this, yet not with the expectation, however, to express what I felt, with the view of getting up personal quarrels with those who might differ with me, because they represented a portion of the people of the state, and had a right to take a different view in regard to these matters from myself, I would not have said one word, but for the arraignment of the action of the legislature of 1852.

Now I was myself connected with getting up the apportionment at that time Permit me to say here, that that apportionment originated in the other end of the capitol, under the eye of his excellency Governor Grimes, than whom no man perhaps exercised more influence in that end of the capitol.

I undertake to say here, that, as far as my information goes, there was no party feeling or excitement upon that question. I know that when it came into the house, the question of party was not raised, and I know there was more objection on the part of some members of the majority, in regard to the disfranchising of some counties, than there was on the part of the minority. I undertake to say there was no charge made with reference to a political gerrymandering. There was some strife between the new and older counties, and there was a feeling in the house of representatives and in the senate, upon that question; but I undertake to say that there was no discussion upon the question of party politics. There was no misunderstanding in regard to that matter. I know there were complaints made about the representation which was given to some of the western counties; but I apprehend, if there had been any of this unjust gerrymandering, of which the gentleman speaks, we should have heard the voice of Gov. Grimes upon that question.

I make these remarks because I think I have as good a right to claim to understand this matter as the gentleman from Jefferson [Mr. Wilson], who, I understand, was not a resident of the state at that time.

Mr. WILSON. The journals show what course was pursued at that time.

Mr. HARRIS. The journals do not show that any party questions came up. The only thing which the journals show is the difference that existed between the new and old counties. The gentleman says that the majority kept a certain man as a member upon this floor, until they had passed an apportionment bill. I happened to be here, and I recollect hearing some of the discussion that took place in regard to this man Bryan.

Mr. WILSON. I would ask the gentleman whether, before the election of the United States Senator came on, the majority in the house of representatives did not give the contestant of a seat upon that floor, the democratic member, his seat, and oust the republican member?

Mr. HARRIS. It may have been before the election of the Senator, but not before they were in caucus. I undertake to say, that they would not have done so, had they not believed that the Senate would not permit Bryan to go out, so long as the other branch retained the member whose seat was contested.

Mr. WILSON. As soon as the senatorial contest was determined, I would ask the gentleman if the committee on elections did not make their report, and if the senate did not immediately act upon it, and give the republican claimant his seat?

Mr. HARRIS. I am not prepared to answer the question. I undertake to say, that so far as the senatorial difficulty was concerned, it was a question of strife between the two houses; and the Democracy said that as long as the other house retained the republican claimant from Marion county, who was notoriously a usurper, in his seat, they had no occasion for turning out Mr. Bryan, and they would not do it, until the house had turned out this man from Marion county.

The gentleman from Jefferson says that the majority of the senate passed the apportionment bill here, and then they permitted that man to go out. But I will ask the gentleman, whether there was not a majority of the other party in the other house at the same time? I ask the gentleman whether they were under the necessity of concurring in the apportionment passed by the senate, unless they chose? Long before the close of the session, they held a majority in both branches of the legislature, and had held the majority in the house of representatives during the whole session; and yet the gentleman comes in here and attempts to shield himself behind the action of that legislature.

The democrats are arraigned for their action upon this matter of the election of United States States Senator, and for taking a step that the Senate of the United States have said was a le-

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gal one, a step to prevent those, representing the majority in joint convention, from frittering away a whole session in bickering and quarreling among themselves, for the purpose of electing a United States Senator. It will be recollected that the democrats, by the gentleman's own confession, holding a majority upon this floor, had gone into joint convention some four or five times, with a majority against them, to elect a United States Senator. And yet, because of the notorious quarrellings and bickerings among the majority, they were unable to elect a United States Senator. But, finally, the democracy concluded that they had some other purpose to subserve, besides that of spending a whole session in sitting in joint convention to elect a senator, when the majority were unable to agree among themselves.

Mr. WILSON. I would ask the gentleman if the democrats did not consent to go into election of senator, and if they did not, as soon as the republicans concentrated their strength upon Mr. Harlan, as their candidate, bolt from their agreement?

Mr. HARRIS. There was no understanding about Mr. Harlan. I happen to know as much as any other gentleman here about the refusal of the Senate to go into that election. It was not known what the action of the majority was; but the democrats said that they had given them five opportunities to elect a senator, and they considered that they were exempted from waiting any further upon these party quarrels, in which the majority were unable to agree. I undertake to say that there was no understanding that the democrats were to go into joint convention under these circumstances. If gentlemen will permit me to go a little further, I will say that, so far as the refusal of the democrats to go into an election at that particular time was concerned, the objection rose with gentlemen who, up to that period, had acted with the opposition to the democracy. I undertake to say that, so far as that political struggle is concerned, I apprehend the gentleman from Jefferson will not make much in making an appeal to the people of this State, in regard to the action of the democrats, taking in connection the history of that session, with the notorious wasts of time, and total disregard of the public business, that followed on the part of the majority. I have no anxiety to allude to these things, and discuss them here, and should not have done so, if I did not consider that I myself, as a member of a former legislature, was really under obligations to do so. I would be culpably liable if I did not attempt to defend myself, and those who acted with me at that time.

There is one other matter to which I wish to refer, and which I would not think of mentioning, if the gentleman from Des Moines [Mr. Hall,] was in his seat, but I would leave that gentleman to defend himself. He is not here, and I feel myself called upon to say a single word. The gentleman from Jefferson [Mr. Wilson,] says, that there is a little matter in connection with the history of elections in this State, that he should think would place an estoppel upon the mouth of the gentleman from Des Moines, [Mr. Hall,] in reference to making the complaints he has here. Having heard this thing so often, so far as the gentleman from Des Moines is concerned, I had supposed that it had become worn so threadbare, that gentlemen would not again repeat it. We all know to what the gentleman refers. It is the history of a certain poll book affair that occurred upon the Missouri River. If the gentleman from Des Moines, or any other gentleman, were really guilty of the charge of theft, in that matter, as some gentlemen have been in the habit of insinuating, ever since the transaction, I have only to say that I do not stand here the apologist for theft, or any other crime.

And I will say another thing here; that if it be wrong, as it certainly is, to steal at any time, and especially to steal poll-books, it was certainly more wrong to steal these than any other; because I understand that anything which a man pays money for is his, and it is generally understood that the opposition had bought these poll-books, and paid a good round sum for the votes contained in them; and they were, therefore, entitled to them, and these books should not have been taken away from them in this manner.

So far as the history of that transaction is concerned, I apprehend that if gentlemen will take the trouble to make an examination, they will not find very much perhaps to glory in upon either side of the question. When Elder Hyde could admit that the price of those poll-books was one thousand dollars, which they received, I think that gentlemen upon the one side would feel as much delicacy in mentioning it as a despicable transaction, as they would upon the other side. But let me say, as I said before, that it was certainly wrong to take them, because what a man pays his money for belongs to him. I do not stand here as the apologist of the gentleman from Des Moines, if he was connected with it; but it is well for gentlemen to understand the whole of the transaction, before they are ready to indulge in their insinuations here.

Permit me to make a remark or two upon this schedule. The gentleman from Jefferson, [Mr. Wilson,] says that he understands this protest to be the war cry, the signal for attack upon this constitution. I do not expect, or pretend, to speak for any body but myself. But so far as I am able to present this constitution before the people, I do not expect to try to influence the vote of any body, pro or con; neither do I understand that, by any thing I have said or done here, I am pledged to vote either for or against it. But I claim, and shall exercise all the privilege of an elector when I go to the ballot box. I claim that my right to exercise my choice how I shall vote is not compromised in the least. I expect to exercise that right independently and fearlessly, and I expect every voter in the State

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will do the same. I do not understand that, in placing my name upon the protest against this schedule, and the principle there involved, it pledges me, if I think that the principles of that constitution are right and proper, to vote against putting them into operation, because this schedule lasts only for a day as it were, while principles of government are to be established by this constitution upon the institutions of this State for an age.

While I think that the schedule upon its very face, shows extreme partyism, yet I do not fear the result of it so much, because I believe the history of elections in this government, that where electors are free, where parties resort to unfair apportionment and to gerrymandering, they are always in the end sure to meet defeat, although success may at first crown their efforts. I apprehend that the majority here will find, so far as supporting the principles of this schedule is concerned, and so far as it may be regarded as partizan action to control the elections of officers, that the action of the majority in this respect will receive a most complete condemnation from the people.

As I have said before, I do not understand that I am pledged, by the manner in which I have seen proper to protest against this schedule, to vote against this constitution. I do not think that the protest pledges any gentleman who has signed it to do so. I think the man, who would make the schedule a reason for voting against the constitution, would prefer the shadow to the substance.

So far as the partyism of this schedule is concerned, I think this is evident upon its face. As near as I am able to ascertain, I find that—not twenty thousand as was stated by the gentleman from Des Moines—but between seventeen and eighteen thousand will be disfranchised entirely by that apportionment. I have taken some pains to make comparisons and investigations, and here is a single fact to which I wish to call the attention of the convention. Take three counties near the northern part of the state that are strongly republican, and with only a population of four thousand each; they are each given a representative, while the county of Davis with a population of twelve thousand, and the county of Appanoose with a population of ten thousand, are only given a representative each. The county of Wayne, with a population as large as either of these three northern republican counties, is not given a representative, but is coupled with the other two counties, Appanoose and Davis, to get a third representative. These are matters of history. These are facts which will appeal to the people of this State, not upon the question of adopting this constitution, but when an attempt is made to elect and place in the legislature members to be elected by such palpably unfair means.

I think that all officers should have been elected at the first election under this constitution, and it would have been better if provision had been made for the election of the whole legislature then. I would prefer to see the present legislature come back, than to have an apportionment fastened upon us, for which no apology can be offered, save that it is designed to secure an advantage, however much the sentiment of the people of the state might be changed, by which the present majority, however insignificant the minority into which they might sink, would hold the balance of power in the legislature.

But gentlemen upon the other side ask us, why do we complain when the senate is left just as it was. Four years ago we held the majority and when the republicans were placed in the same situation in which we are now placed, we compelled those who came in here upon an increase of representation, and by a change of districts, to draw lots among themselves; and as an evidence that there was nothing unfair in this, I believe that but one democrat to five of the opposition secured long terms. And yet when the same case arises here, they all hold over. That is what we complain of.

A remark or two further and I will close. The gentleman from Jefferson [Mr. Wilson] says, that we are estopped from complaining of these things in view of the past history of the democratic party. This kind of assertion will answer very well for declamation upon the stump; but even if it were all true, which I deny, I do not understand that we are thereby estopped from comming in here and protesting against what we see is wrong and unfair. Permit me here to say that it is strange, if the history of the democratic party is such as the gentleman complains of, that that party should have succeeded for so long a period of time in maintaining its ascendency in the government of this country. It is very fortunate for the gentleman just at this time, in making a charge of this kind, that he can claim to belong to a party that has no history. After garroting the party to which he has belonged, after stabbing the old party with which he has been associated, he can come in here now and make his charges against its history, and shield himself behind a barricade where we cannot make the same charges against the party to which he now belongs, for fortunately for him it has no history. Permit me here to say, if the stand that has been made here is followed up, it will not be long before it will have a history, and one which I apprehend the gentleman will be as ready to get rid of, as he has been of the history of that party with which he says he has been heretofore associated.

Mr. WILSON. I wish to make a statement in relation to some things alluded to by the gentleman from Appanoose and myself. It will not take a great many facts to upset all the declamations which the gentleman can make. He can declaim as much as he pleases about the action of the democratic party in 1854–5. The journal shows what that action was; and it shows that Mr. Clark was admitted to his seat by a majority of the house of representatives on

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the fourth day of January, 1855, pending the senatorial contest. The sixth day of January was the day for the joint convention from which these immaculate senators bolted. What then do we find in the senate? Instead of turning Mr. Bryan out of his seat before they went into the joint convention, and before the senate could act upon the adjournment, we find that they kept Mr. Bryan in his seat, until—when? The joint convention was on Saturday. A majority of both branches elected Mr. Harlan senator, and the contest was ended. On Monday these immaculate democrats turned out Bryan and admitted Jordan.

Mr. HARRIS. Did Mr. Clark's vote change the result?

Mr. WILSON. No, sir; Mr. Harlan had three votes more than a majority of all the votes, but Mr. Bryan's did on this side of the house. He controlled it; and it was by the use of Mr. Bryan's vote that the democratic senate could adjourn from Saturday over to Monday, and thereby attempt to defeat the election of United States Senator. Mr. Bryan's vote would answer every purpose of controlling the senate, so long as it was desirable to that party to control it; but after the senatorial contest had closed, then these gentlemen could afford to let the man elected by the people take his seat and act as a member of the body. They had investigated it in committee before that time. They knew all about it. They were prepared to act upon it; and on Monday they did act upon it, and threw Mr. Bryan out of the seat, because they had no further use for him in particular. The apportionment was past; the senatorial conflict was past; the judges of the supreme court had been elected; the state printer had been elected; all their officers had been elected; and Mr. Bryan was of no further use politically. Therefore he could go; and the people of Polk district could be represented upon the floor of the Senate by the man whom they intended to vote for United States senator for them, but who was kept out by that party. Yet we are arraigned here now by gentlemen who consider their party a party belonging to history, and attempts are made to sneer at members upon this floor who have now turned the cold shoulder to that party, and turned its carcass over to other hands. Very well, sir; it only shows the independence which existed among men who were connected with the old whig party, and men who composed the old democratic party, to rise above the party shackles which still bind the minority upon this floor, and to act like men. When the leaders of the party interfered with the interests and the principles of the party, they burst their party bonds and came out like freemen, not crouching down before the power which demanded that all the principles of the party should be surrendered. That is the difference. I am proud that I belong to such a party. I would rather occupy that position to-day, than to be the oldest democrat, and the one standing highest in the party, because even he must submit his back to the lash, and stand and take it patiently, or he, too, must come out of the party.

We have good democrats upon this floor acting with the republican party, noble men, noble in heart, noble in deed, who would never submit their backs to be lashed by the power that has controlled that party. That is the reason we find them here. And that is the reason why the republican party, as the gentleman says, has not a long history as a party organization. It has not; but as to its principles, go back to the days of the fathers and you find them. We are only endeavoring to support these old principles, and we care not whether we do it under the name of republicans, or whether it is under any other banner. Whereon floats the banner upon which these principles are inscribed, there will we rally, and there will we strike. The gentleman may pride himself upon the history of his party as much as he pleases; but he admits that it is a history with many blots upon it.

Mr. HARRIS. No, sir; I did not admit that.

Mr. WILSON. Aye, sir; but he brings up the old whig party as a comparison; he brings up the present action of the republican party as a comparison; comparing them with what? With the same foul blots upon the democratic history, which he ascribes to them. But the foul blots upon the republican party he has failed to find, and he cannot find, say what he pleases. He has referred to one thing; in fact, he not only referred to it, but blurted it out in fair open terms. I did not refer to anything in the history of any gentleman by way of a direct charge. I did not point out what I had referred to; but how readily the gentleman from Appanoose, [Mr. Harris,] understood it. It is a part of their history, and being versed in the history of the party, and in the acts of the party, as a matter of course he understood me. But he says that the other party was engaged in a wrongful transaction also; and therefore, to use his term, it justified them in stealing.

Mr. HARRIS. No, sir; I did not say that I justified stealing. On the contrary, I said that however wrong it might have been in other cases, it was here doubly wrong, for the reason that what a man pays for, he is entitled to.

Mr. WILSON. That may have been the gentleman's language; but it seemed very like a justification to me. It looked like it; it sounded like it; and I believe it was it. He referred to the time when the democratic party were in power for so long a time. Why were they in power so long? Because of that very policy to which I have referred and which he endorses. Think of their gerrymandering schemes to overturn the action of the people in the selection of their officers. If they could only have held out under their apportionment of 1854, and elected a majority to the last general assembly, how nicely they might have sent A. C. Dodge, or some other man back to the senate. That would have continued this power, and their means of keeping in power. Every man of them knows

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it. They are steeped in the history of these transactions. Let them go to the people with their charges, if they will. But let them view the recent history of legislative proceedings in Illinois; let them take up the Ohio constitution and the apportionment made by the democratic constitutional convention. Let them take it all up, and say whether or not, in every instance where that immaculate party has had the power, they have not gerrymandered so as to deprive a large majority of the people of their right to be represented. What was this gerrymandering scheme in Illinois for? Any honest purpose? Was it intended to confer upon the people the right to give a free und unbiassed expression of their will in relation to the choice of United ted States senator next to be chosen in that state? No, sir; it was merely for the purpose of perpetuating the power of Stephen A. Douglass, the man whom the gentleman from Appanoose [Mr. Harris] and his friends, may thank for the organization of the republican party, and for the many democrats who surround me, having been an old leader in that organization. It was for that purpose they perpetuated or attempted to perpetuate that act of apportionment. It was for that purpose that a similar scheme was attached to the constitution of Ohio. It is for the same purpose that they always pursue these transactions, whenever they are in power.

I do not wish to pursue this further. There is one thing I wish to refer to, called to my mind by the gentleman from Warren [Mr. Todhunter] and that is the great love that these gentlemen now have for the present legislature. They are perfectly willing to let that legislature come back here, although they charge it as one of the rascally abuses of that legislature, that they have disfranchised thousands of voters in this state, depriving them of their representation. Yet that rascally, scoundrelly set of men, they are willing should come back here under the new constitution, and start the state government under that instrument. How rapidly these gentlemen have been converted! How they stood up here the other day and battled against retaining that legislature in power! How strenuously they objected to retaining them in power! How anxious they were to have fresh men, direct from the people, men who should come out from the ballot box next October, in order to hold a session under this constitution! But that is all departed; and why? Do they fear that that legislature cannot return George W. Jones to the Senate of the United States? Is that where the shoe pinches? Is that what the gentleman from Appanoose feels, to use the expression of the gentleman from Des Moines? It must be so. It can be nothing else. And yet, with all this, they now ask us to forego a new election, and bring back this old legislature. These gentlemen would be very willing to compromise in several respects. They ask to place a protest upon the journals of this convention, protesting against the postponement of the election of the judges of the supreme court; and yet, I undertake to say, that some of the very gentlemen whose names are signed to that protest, have offered to compromise by providing for the election of one judge of the supreme court next October, another in the October following and another in 1859. If this principle is essentially wrong; if it conflicts with the principles of our constitution; if it is at war with the interests of the state; if it is depriving the people of their rights, why is it that these just men, these men who have set themselves up to judge others, are willing to yield two-thirds of that principle, and reserve one-third; are willing to give one-third to the people, and reserve two-thirds for themselves? The only reason is that they have not got all that they wanted. That is the long and the short of the story. If they could only have got everything they wanted here, not a word would have been uttered here. If they had had a majority, and could have passed a schedule ten thousand fold more unjust than they pretend that this one is, which charge I repudiate, they would have stood by it like men, and would have fought until the last hour of the session to sustain it. They always do it. But they have not got it; and now they object. I do not want to continue this; but take them all along the path-way of the party, and we find them objecting. They met in national convention and resolved that they had almost unlimited confidence in the integrity of the people, and of their ability to govern themselves. Yet whenever the people through the ballot-box interfere with the party, how soon do we find that confidence departed. I do not wish to pursue this question any further.

Mr. JOHNSTON. I wish to interpose. My name is not upon that protest, but I would like to have a little time, not for the purpose of examining the protest, but for the purpose of making up the accounts of the convention. I want to get together the committee on expenditures; and I would ask that the convention take a recess until seven o'clock this evening.

The PRESIDENT. It is very proper that the constitution should be read. Perhaps the further discussion of this matter should be postponed until that is concluded.

Mr. JOHNSTON. I do not care when; the fourth of July next, if that suits gentlemen.

Mr. PATTERSON. I desire to say now, for fear I may not be in my seat when this question comes up, that it is not a correct inference which I understood the gentleman from Jefferson to intimate, that those who signed that protest here, will most probably go home and oppose the constitution. I signed that protest and I voted against that schedule, I believe, every time there was a vote taken upon it. I am opposed to it and therefore I signed the protest. But I do not wish it to be understood that because I signed that protest I shall go home and make war against the constitution we may adopt here. I do not know that I shall, or that I shall not. I intend to act in that matter as a free man. So far as relates to the charges thrown out here against

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the democratic party, they do not amount to anything. My own impression is that both sides have gone too far upon this question; and as I desire the perpetuity of the democratic party, I should like to have the gentleman from Jefferson make some speeches against the party in my county.

Mr. WILSON. I will endeavor to do so.

Mr. HARRIS. A single word—and I will not occupy more than a minute. With regard to the improper advances made by the signers of that protest for a compromise here, I will only say for myself, that while I said, when I was up before, that I thought we ought not to be and would not be satisfied with anything short of electing all the officers at the first election under this constitution, yet I would have much preferred to permit this legislature to come back again, rather than to indorse this apportionment made at the last session. I believe that is the feeling of my friends here, generally. We would have been willing to do anything honorable—not dishonorable, as the gentleman intimates—if it had not been willed in the caucus of the majority that that apportionment should be fastened upon us, we would have been willing to do anything honorable to get clear of that apportionment. We would not have said that we were willing to send the present legislature back again, excepting as a choice of evils—that is all. If the gentleman can make anything of that, he is welcome to do so.

Mr. CLARKE, of Henry. The question before us is upon granting permission to spread that upon the record. Is there any other motion pending?

The PRESIDENT. No, sir; no direct motion; but the Chair will suggest that the constitution has not been read through yet, and perhaps it would be better to examine it by daylight, rather than in the evening.

Mr. CLARKE, of Henry. I will move that we postpone the further consideration of this subject for the present in order to take up the constitution. When it comes up again, I should like the privilege of making a few remarks upon it.

Mr. CLARKE, of Johnson. I want to give my reasons for voting for this schedule; but it is immaterial whether I do that now or this evening.

The motion of Mr. CLARKE, of Henry, was agreed to.

Final reading of the Constitution.

The constitution having been taken up for its final reading, as a whole—

Mr. CLARKE, of Johnson, said: I move that the constitution be referred to a committee of three of the most critical scholars in the convention, to examine and report upon it. I think such a committee could examine it more thoroughly than if it were to be read through at the clerk's desk. It would give the constitution a more careful scrutiny, and at the same time would relieve the Secretaries, and give them an opportunity to make out their records. And I wish it to be understood that I do not wish to be placed upon the committee, for I do not include myself among the most critical scholars of the convention.

The motion was agreed to.

The PRESIDENT appointed Messrs. Clarke of Johnson, Hall, and Gray, as said committee.

Mr. CLARKE, of Johnson, asked to be excused.

The PRESIDENT named Mr. Wilson.

Mr. WILSON asked to be excused.

The PRESIDENT again appointed Mr. Clarke of Johnson.

Distributing Green's Reports.

On motion of Mr. TODHUNTER,

The following resolution was taken up for consideration:

"*Resolved*, That the Secretary of State be allowed the sum of ——— dollars, to pay postage upon Green's Reports, to be sent to members of the convention."

Mr. TODHUNTER. I will say in connection with this matter, that the Secretary informs us to-day that he has made an arrangement for the purchase of the reports—the three volumes yet to come. He expects some of them this evening. They were exp essed from Chicago. He wants to send them to us, and this appears to be the better way, to mail them. The postage upon each volume will be thirty or forty cents. I will fill the blank with fifty dollars.

Mr. CLARKE, of Johnson. I am somewhat familiar with the cost of sending these volumes. I understand that the price is thirty cents; at least that is what I have been paying for some weeks. It seems to me that fifty dollars is too much for sending only thirty or forty reports.

Mr. TODHUNTER. There are about one hundred in all.

Mr. CLARKE, of Johnson. I beg leave, in this connection, to call the attention of members of the convention to this fact. We have already provided for sending ten daily slips of these debates to each member; and I apprehend that the cost of the postage upon that and this, together, will amount to five hundred or six hundred dollars. These things look small in the resolutions before the convention, but the convention will find, when they add up the postage bills, that it will be an enormous sum. It is for gentlemen to consider whether they are going into this blindly or not. Personally, I have no interest in the matter, being at home here. But I call the attention of the convention to the facts.

Mr. MARVIN. I desire to call the attention of the convention to some figures. I suppose there will be about a hundred and fifty sheets of

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the debates yet to come, which will amount to fifteen dollars to each member, or five hundred and forty dollars for sending all the slips. It is one dollar and fifty cents to each slip; each member has ten slips, making fifteen dollars; and then multiply by thirty-six, the number of members, and we have the result, five hundred and forty dollars. Then, if such shall be the number of slips, the postage will be five hundred and forty dollars. Now add to that twenty-five dollars for the postage upon Greene's Reports, and we have five hundred and sixty-five dollars postage. We have appropriated for the distribution of the reports of the convention, by the Secretary of State, four hundred dollars; and to our secretary for his services, indexing, distributing, &c., five hundred dollars; making in all, fourteen hundred and sixty-five dollars. Now suppose that we should take the duty of distributing these journals from the secretary, and give him two hundred dollars for indexing and superintending the printing. Then suppose we make it the duty of one man to distribute the journals of the convention, Greene's reports and the debates, say in the month of May, and pay him five hundred dollars. That makes seven hundred dollars; and we should save seven hundred and sixty-five dollars, according to these figures.

Mr. GOWER. That cannot be possible.

Mr. TODHUNTER. It will not come to a quarter of that.

Mr. CLARKE, of Johnson. These daily slips cost one cent a sheet.

Mr. TODHUNTER. They would only cost half a cent if pre-paid.

Mr. CLARKE, of Johnson. The gentleman is mistaken. I have been in the habit of mailing the sheets of my volumes from New York, and pre-paying the postage. It would be one cent.

Mr. TODHUNTER. But the postage on the Tribune is only twenty-six cents a year.

Mr. CLARKE, of Johnson. True; but that comes under a different provision of the law.

Mr. EDWARDS. I move to fill the blank with thirty dollars.

Mr. TODHUNTER. I accept of that.

Mr. YOUNG. That will bring him about five dollars out of pocket. The postage on the books will be thirty-five dollars.

Mr. TODHUNTER. He can send to some of the members without sending by mail. All he asks is the actual cost of the postage.

The resolution was agreed to.

Postage of the Convention.

Mr. JOHNSTON. While upon the subject of postage, I will say that the postage account has been sent in from the office here, and it is five hundred and thirty-four dollars and thirty-eight cents. In addition to that, there is a statement calling the attention of the convention to the fact, that letters will continue to come for two or three weeks, which will have to be forwarded to members. If it is desired to make provision for forwarding these letters, it should be done now.

Mr. TODHUNTER. I move that the mail matter forwarded to members be sent unpaid.

Mr. JOHNSTON. It is not necessary to make that motion. If no action is taken, that will leave them unpaid.

Mr. GOWER. I think the rule now is that no printed matter goes into the mail unless it is pre-paid. I think that is the law now in force.

Mr. JOHNSTON. Matter is forwarded without being pre-paid.

M. MARVIN. I wish to make a motion concerning these slips. I do not know that it will meet the approbation of members. We have voted to each of the members ten of these slips, for the purpose of sending them to our constituents during the session of the convention, to inform them as much as possible of our doings here. I do not know that we desire to send them still. Now that we are about to adjourn, as it will be attended with considerable additional expense, I am willing, for one, to forego the pleasure of having these sent; but am willing to wait until the volume is completed, and then we will distribute them as fast as we can. It is only necessary that one slip should be sent to each member, in order that he may inform the publisher what corrections he desires to have made in the volume. I move to dispense with the ten slips sent to each member.

Mr. CLARK, of Alamakee. I should be opposed to that change. We have commenced and received about one hundred and forty pages of these reports. So far as I am concerned, these have been distributed in the district I represent, and in the first place to the editors of papers in my district. These slips will be almost useless in the hands of those persons, to whom we have sent them, unless they are continued, so that they can have the whole of them when we get through, so that they shall be complete. This has been done at the expense of the State. I wish to say, so far as I am concerned, and so far as my district is concerned, that if the State is too poor to pay the postage upon these slips, I am willing, from my own pocket, to deposit money with the printer to pay the postage upon the slips I am entitled to. The slips I want, and if the State will not pay for them, I will deposit money with the printer to pay the postage myself.

Mr. CLARKE, of Henry. I hope the gentleman will withdraw his motion.

Mr. PARVIN. Our work is done; and no information we can send our constituents now will undo it. I think the object of sending them is pretty much done away with; and if we cannot receive them for less than five hundred dollars postage, I think we ought to do without them. I am satisfied that the reporter and pub-

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lisher will get the reports as near right as is necessary; and by doing without the slips we save nearly all the expense of this postage.

Mr. CLARK, of Alamakee. We shall not get the volume when bound, to distribute through the State, probably before July. They may finish the printing in May, and finish the distribution in July, which will be too late to be of much immediate value in influencing the vote of the people. But if the editors of papers get these slips, they will be provided throughout the State with this information as fast as it can be put in type, and indeed about as fast as they can make use of it. The people, ther fore, will be posted up, upon all the principal questions which come before the convention, before the volume will be ready for distribution. I see no necessity, and no reason for changing the rule. There is just as much necessity for our taking the slips now as when the convention was in session, excepting perhaps the one sheet for each member. There was no more necessity for the nine copies to be distributed throughout the State when the convention was in session than now. One copy was intended for each member, to inform him what had been done during the session; but the same reason now exists for sending the other nine copies to the counties which has existed during the session of the convention. I am certainly opposed to cutting off this information which the people demand. I would rather, if gentlemen wish to curtail this matter, curb it in some other respects. The people can better afford to have some other matters curtailed than this, which is intended to spread the earliest information before the people of the State of what we have done in this convention.

Mr. PARVIN. I am not particular about the fate of my motion. The publisher informs us that he supposes the expense of publishing these slips hereafter will be about four hundred dollars. I agree with the gentleman from Jones, [Mr. Marvin,] that we are paying too much. He estimates the postage to be five hundred and and forty dollars; and if that is correct, we shall save nine hundred and forty dollars by dispensing with these slips. I leave it to members whether they will save that expense by doing without these slips.

Mr. CLARKE, of Henry. So far as I am concerned, I would rather have the slips than the bound volumes.

Mr. CLARK, of Alamakee. They would be of more benefit to the State.

Mr. CLARKE, of Henry. And more benefit to myself; for everybody will be asking for them.

Mr. CLARKE, of Johnson. I hope that motion will not prevail. I have been sending these slips regularly to nine of my constituents, one of them the Chief Justice, in this city, and they will expect to be supplied with the complete set; as I have assured them that I should continue to send them. If these slips are cut off, I shall have to take nine of my bound copies to furnish them.

Mr. SCOTT. I hope these will not be cut off. I have sent to some of my constituents, with the statement from me, that I would send them the complete set, so that they could preserve them, and have them bound. They will expect me to keep that promise. They want to keep the file entire.

The motion was not agreed to.

The PRESIDENT. I am desired to say to members of the convention, that as there are some typographical and other errors in the slips already printed, and as other errors may occur hereafter, both before and after our reporter commences his revision of the proof, he would desire each member, before the close of the publication, to forward to him such errors as they may be able to discover, and he will insert them under the general head of "Errata," to come in just before the debates.

On motion, the convention took a recess until seven o'clock this evening.

NIGHT SESSION.

The Convention re-assembled at 7 P. M., and was called to order by the President.

Mr. JOHNSTON, from the committee on expenditures, called up the report with regard to newspapers furnished to members, which had been corrected, and which was accompanied by the following resolution:

"*Resolved*, That the allowances made in the annexed statement be allowed, and that certificates of the same, signed by the president, and attested by the secretary, be delivered to the auditor of state."

The resolution was agreed to.

Mr. JOHNSTON reported from the same committee the following statement:

Compensation of Officers.

Thos. J. Saunders, Secretary, 47 days, at $6 per diem, $282,00.

E. N. Bates, Assistant Secretary, 47 days at $6 per diem, $282,00.

S. C. Trowbridge, Sergeant-at-Arms, 47 days, at $3 per diem, $141,00.

F. Thompson, Door-keeper, 47 days, at $3 per diem, $141,00.

J. H. Merritt, Fireman, 47 days, at $3 per diem, $141,00.

John Quaintance, Assistant Fireman, 44 days, at $3 per diem, $132,00.

James Hawkins, Messenger, 47 days, at $2,50 per diem, $117,50.

George Clearman, Assistant Messenger, 47 days, at $2,50 per diem, $117,50.

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W. Conard, 2d Assistant Messenger, 47 days, at $2,50 per diem, $117,50.

A. J. Kynett, Chaplain, $150,00.

Also, the following resolution:

"*Resolved*, That a certificate, signed by the president, and attested by the secretary, embracing the above statement, be delivered to the auditor of state."

The resolution was agreed to.

Miscellaneous Expenditures.

Mr. JOHNSTON, from the committee on expenditures, reported the following statement and resolution:

Thos. J. Saunders, for enrolling journal and constitution, $200,00.

Willis Conard, forwarding letters after adjournment, $30,00.

Mrs. Wall, for paste, $4,00.

Post office accounts, $534,38.

Wm. Gray, for enrolling constitution, $35,00.

E. Sells, Secretary of State, for books purchased under order of the convention, per bill filed, $740,00.

E. Sells, Secretary of State, for distributing Green's reports, under resolution of the convention, $30,00.

W. Blair Lord, for superintending printing, and indexing debates, $200,00.

"*Resolved*, That the President of the convention sign, and the secretary attest, a certificate of the correctness of the foregoing accounts, to be delivered to the auditor of state."

Mr. JOHNSTON. I would suggest that if it is desired to make any provision for mailing letters which may arrive after we adjourn, it should be done now, to be inserted in this account.

Mr. CLARKE, of Johnson. There was an appropriation to Willis Conard for that purpose.

Mr. PETERS. Was not that intended to pay for his services in re-mailing? I supposed that the expense of the re-mailing was to be charged to the State.

Mr. TRAER. I understood that he was to pay the postage and charge it to the state; I think that was the wording of the resolution.

Mr. JOHNSTON proceeded to report the following resolutions:

"*Resolved*, That John Teesdale, of the Iowa Republican, be allowed for the incidental printing of this convention, the same prices as are allowed for similar work by law to the state printer, and that a bill for the same be presented to the auditor of state.

"*Resolved*, That John Mahin's account for printing the journals and the constitution, per resolution of this convention, be audited by the state auditor, and that he be allowed for such work the same prices as are now allowed by law for similar work to the state printer.

"*Resolved*, That John Bittman's account for translating the constitution into the German language, and printing the same, as per resolution of this convention, be audited by the state auditor, and that he be allowed for such work the same prices as are now allowed by law for simila- work to the state printer.

"*Resolved*, That Henry P. Scholte's account for translating the constitution into the Dutch language, and printing and distributing the same, shall be audited by the state auditor; and that he be allowed for printing the same, the same prices as are now allowed by law for similar work to the state printer.

"*Resolved*, That the accounts of A. P. Luse & Co., for printing the debates of the convention, under contract made for such work, (see page 26 of debates,) be audited by the state auditor, on the certificates of W. Penn Clarke, chairman of committee of printing debates.

"*Resolved*, That the accounts of W. Blair Lord for reporting the debates of this convention, under contract made for such work, (see page 26 of debates,) be audited by the state auditor, on the c- rificates of W. Penn Clarke, chairman of committee of printing debates."

Greene's Reports.

Mr. JOHNSTON. This bill of books purchased by the secretary of state does not include the constitutions of other states, Cushing's Manual, either volume of Clarke's Reports, or the first volume of Greene's Reports. I will read the statement:

Forty copies Greene's Supreme Court Reports, vol. 2, - - - -		$200 00
" " " "	vol. 3,	200 00
" " " "	vol. 4,	200 00
" " Morris's Reports,		120 00
Freight, charges, &c.,		20 00
Total, - - - - - -		$740 00

Mr. CLARKE, of Johnson. I have a letter from Judge Greene, of which I will read the last paragraph:

"My third volume will soon be ready to deliver, and my fourth volume is promised by the first of June next. I will send you a copy of each as soon as bound."

I received this letter from Judge Greene last evening. He states that he has sent me forty copies of the second volume; but I have not yet received them. I went to the office of the express company this morning, but they had not arrived. The convention will see from this correspondence that the third volume is not ready for delivery; that the fourth volume is not expected to be ready before the first of June. I desire to present to the convention this question whether the convention is willing to take the responsibility of incurring this debt of four hundred dollars for the third and fourth volumes of Greene's reports, which we have not received and cannot obtain until long after the c nven

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tion adjourns? It seems to me to be worthy of consideration whether that is not cutting a little too deep.

Mr. JOHNSTON. I desire to say in justification of the secretary of state that—

Mr. CLARKE, (in his seat.) I do not blame him at all.

Mr. JOHNSTON. He understood the resolution of the convention to cover all these supreme court reports; and upon entering into correspondence with Judge Green, he has learned that the second volume is ready immediately, and the third and fourth volumes will be ready in a short time. That is the situation of the matter.

Mr. CLARKE, of Johnson. I do not blame the secretary. He has done his duty under the resolution. The question is whether the convention, the books not having been received, will not take such action as will relieve the State from this liability. The books have not been received in time for the use of this convention; and hence I suppose that any contract made with Judge Greene by virtue of the resolution, not having been carried out upon his part, may be rescinded upon ours. For the purpose of testing the sense of the convention, I move to strike out from this bill, the sum of four hundred dollars, the price of the third and fourth volumes of the reports.

Mr. HALL. I hope that motion will not prevail. In the first place it is a fact that the legislature of the State has never extended to these reports the extent of patronage that it ought to have given. They should have purchased more. It is notorious that these books are purchased by the State to encourage their publication as much as for distribution; there is no doubt of that, at all. The legislature have purchased them, and given them to their members; and I think we cannot do better than to take them, and let the State pay for them. We appropriate the money in the same manner that it is usual to appropriate it, and we put the reports into the hands of persons who will examine them. It is a small matter, and if the convention should do as the legislature have done, I am sure we should not be taking too much from the State for the services we have rendered. It is no more than a legislature would have done. I hope the convention will do as they agreed, and settle the matter.

Mr. CLARKE, of Johnson. Under the law now in force, the State will take four hundred copies of this report; and if we admit this bill, we shall be taking forty copies in addition to their four hundred copies. If we were to take them out of the four hundred copies which the State has agreed to take, I should not have so much objection to it; but we are taking forty copies more, at a time when they can be of no practical service to us as members of this convention.

Mr. TODHUNTER. I understand the law of the legislature, that the State shall take four hundred copies, to be in force. I understand that if we take twenty copies of each volume, eighty copies in all, there will be but three hundred and twenty copies more coming to the State. That is not an illiberal construction to put upon the law, that if we take eighty copies now, it will only leave three hundred and twenty copies coming to the State. We have had enough child's play for the last two or three days; and to test the sense of the convention, I move to lay the motion on the table.

Mr. CLARKE, of Johnson, called for the yeas and nays.

The motion to lay upon the table did not receive a second.

Mr. CLARK, of Alamakee. It is very well known that I made a motion yesterday, requiring members to surrender to the Secretary of State the volumes they have already received. I have no feeling upon this subject whatever. That motion was voted down. The convention determined yesterday to keep these volumes. The first volume of Greene's Reports has been distributed; and it seems to me that if we are to have any of them distributed, we want the whole series. One or two volumes of Greene's Reports, without the remainder, would be of very little use to any one. I should be in favor of rescinding what we have done. But I would either give up what we have, or distribute the rest: and I am indifferent as to which course the convention shall adopt.

Mr. CLARKE, of Henry, moved to amend the amendment, by providing not only for striking out Greene's Reports, but that the members who had received Clarke's Reports should return them.

Mr. CLARKE, of Johnson. I disagree with the gentleman from Warren [Mr. Todhunter,] as to the effect of this. We have not ordered that the copies we take shall come out of the four hundred copies ordered by the State; but we have ordered them without any reference to that, so that they do not necessarily come out of that number.

Mr. TODHUNTER. I think there can be no mistake about it. We ordered the reports on behalf of the State, and the State had agreed to order four hundred copies. It seems to me that the eighty copies we have ordered necessarily came out of the four hundred. When the State shall have ordered three hundred and twenty copies more, it will have fulfilled its agreement to order four hundred copies. I do not see how there can be any other construction given to the law.

Mr. CLARKE, of Johnson. Then why is this bill presented?

Mr. TODHUNTER. As a matter of course, when the books are sent the bill must be paid. When the rest are sent, of course, the bill will come with them. If he should send four hundred in addition to these, the secretary will say to him that the State has already received and paid for eighty copies, and he has no authority to pay for any more than four hundred in all.

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Mr. CLARKE, of Johnson. These are not furnished under that law.

Mr. TODHUNTER. The law only requires the State to take so many copies; and although we may not refer to the law in ordering them, yet it is in fact a partial fulfillment of the law.

Mr. JOHNSTON. I was opposed to the resolution which was offered in the convention with regard to these reports; but there is one question which the convention ought to consider before they vote; and that is the question how far we have made a contract with Judge Greene upon this subject. It appears that under a resolution adopted here, the Secretary of State wrote to Judge Greene to inform him that a resolution of that kind had passed, and desired to know how soon he could furnish the volumes, and at what prices. Judge Greene replied that the second volume could be furnished immediately, and the third and fourth volumes in a very short time. In accordance with that, he has forwarded the second volume of the reports, and they are now on their way. The convention ought to consider whether, under the circumstances, we are not bound to receive these volumes. They all stand in the same light. The Secretary wrote to him that we had resolved to take them—to take all of them. That is the situation of the matter.

Mr. TRAER. It appears to me that striking these items out of the bill of the Secretary of State will not accomplish the object. We have passed a resolution furnishing these reports to the members of the convention, and that will still be in force, if this amendment should prevail. The only effect will be to prevent the Secretary of State from paying for them after we have received them. They will have to be paid for.

It is rather amusing to see the fight here among the friends of the resolution. It will be remembered that I opposed the resolution, and that the gentleman from Johnson [Mr. Clarke], got rather excited about it.

Mr. CLARKE, of Johnson, (in his seat.) I voted with the gentleman against the resolution.

Mr. TRAER. I was about to say that it seemed a little singular that after the resolution has been passed, and certain gentlemen have had their own reports distributed here, they should then come forward and ask us to strike out the rest of the reports.

Mr. CLARK, of Alamakee. Our resolution here has nothing to do with this contract of the State with Mr. Greene, or the laws passed by the legislature. If I mistake not, there has been a provision that the legislature shall take four hundred copies of each volume of the reports, for which he is to be allowed five dollars per volume. If we vote to take forty copies of the reports, it is only saying that we will take forty copies out of the four hundred, of each of these two volumes. The rest of the volumes remain with the State. If we rescind our resolution, and conclude not to take any, the whole four hundred remain with the State. That is all there is of that matter. It certainly does not add forty volumes to the four hundred. The State is bound to take no more than what they have passed a law to take. We take our copies from those four hundred, if we take them at all. The fact that the Secretary of State has ordered them, and that they have been charged to the State, does not alter the case. If Mr. Greene should send the whole four hundred, he would then have a demand against the State for them all. It is wholly immaterial whether we take them or not, so far as the payment for them is concerned.

Mr. CLARKE, of Johnson. After the ungenerous remarks of the gentleman from Benton, [Mr. Traer] I hope I may be permitted to make a single statement. I was well aware that we were all, in endeavoring to discharge our duties here, liable to receive some hard knocks; but I did not expect the imputation implied in the remarks of that gentleman. The fact is well known that when the subject first came up, I moved and voted to lay it upon the table; but I found that that vote was subjecting me to imputations; for it was thought that my object might be to defeat the resolution, in order to compel members to buy my reports from me. When the subject came up on its final passage, I asked to be excused from voting, and was excused by the convention. So far from my having been instrumental in inducing the convention to take my reports, or being influenced by that consideration in relation to Judge Greene's, I wish to repeat that this convention has never taken a report from me. It has taken them from the State. The consequence has been that the lawyers of this convention, being supplied by the State, have not been compelled to buy of me; and I have been injured instead of being benefitted by the passage of that resolution.

I do not object to paying for the second volume of Greene's Reports, although we have not yet received them. But I do object to our taking volumes three and four, which are not yet ready for delivery, and the last of which are not promised before the first of June. I ask gentlemen here to have some regard to propriety. It is true that four hundred dollars is not a very large sum for the State to pay; but I apprehend that when the people come to look at the expenses of this convention they will be thunderstruck. They will be much greater than we anticipate ourselves. It is rather in this view, and not with any wish to injure Judge Greene, nor from any mercenary purpose, that I have deemed it to be my duty to make the motion; and by that motion I am willing to abide.

Mr. HARRIS. If the matter was clear that the State would not be under the necessity of taking these volumes, if we should refuse to order them, I should certainly vote in favor of the gentleman's motion. But I understand that the probability is that the only effect of agreeing to it would be to stock so many more volumes

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upon the shelves of the State library. I gather that information not only from what has been said here, but from the correspondence of the Secretary of State with Judge Greene. And I think that I am not doing injustice to the Secretary of State, nor to anybody else, when I say that my information is that the Secretary of State himself entertains that opinion. I do not think it will be any injury to the people of the State to have these volumes circulated after they have been purchased by the State; and I look upon this as one of the best means of making them public. The sale of them is not sufficient to justify their publication upon the part of the reporters; and hence, in order that they may be published, the State takes a certain specified number, which it seeks to distribute in the best manner possible. If I understood that these volumes were to be considered as additional to the four hundred, so as to swell the expense of the State, I should be in favor of the motion; but I understand that the contrary is the fact, that Judge Greene is entitled to have the State take them at any rate; so that the only practical effect of the gentleman's motion will be to place so many more copies upon the librarian's shelves, instead of accomplishing the object of the State, by putting them into circulation through the State.

Mr. TRAER. In justice to the gentleman from Johnson, [Mr. Clarke,] I will say that I am sorry that I misrepresented him. I said what I did under the impression that he was one of those who pitched into me rather roughly in that former debate. I believe he was not one of them, and I will take it all back.

But there is one thing I wish to reply to. The gentleman has spoken of the expense of this convention. If we had our reports all published, I think I could show that the gentleman has voted in favor of the greatest expense in every case which has arisen since we have been in session. He will recollect that when I moved to re-consider the vote by which three thousand copies of the debates had been ordered to be printed, that gentleman made more noise about it than any other gentleman in the convention. And I think he has voted every time, until to-night, for the greatest expense, perhaps with the single exception of cutting down the *per diem* of the secretary; but now he comes in here, at this late hour, to economise by a plan which I understand will get the secretary into a difficulty.

Mr. EDWARDS moved the previous question, and it was sustained.

The question being taken upon striking out, by yeas and nays, it was not agreed to; yeas 14, nays 17, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Johnson, Gillaspy, Gower, Gray, Johnston, Parvin, Patterson, Skiff, Traer, Wilson and Young.

Nays—Messrs. Ayres, Clarke of Henry, Edwards, Ells, Emerson, Gibson, Hall, Harris, Hollingsworth, Marvin, Peters, Price, Scott, Seely, Solomon, Todhunter and Warren.

Mr. JOHNSTON, when his name was called, asked to be excused from voting, inasmuch as, although originally opposed to procuring the reports, he entertained some doubt as to whether the arrangement with Judge Greene ought not to be carried out; but not being excused, voted "aye."

The motion to strike out was rejected.

The resolutions reported by the committee were severally agreed to.

Adoption of the Constitution.

Mr. GRAY. In behalf of the committee to which the constitution was referred for critical examination, I will report that some of the members of the committee have bestowed all the time allowed them in reading it over; but it being somewhat voluminous it is impossible to vouch for its entire accuracy in all the articles. We have made some verbal corrections which I will read.

The amendments were read and agreed to.

Upon the final adoption of the constitution as a whole—

Mr. GRAY called for the yeas and nays, which were ordered.

The question being taken, by yeas and nays, the result was—yeas 23, nays 7, as follows:

Yeas—The President, Messrs. Bunker, Clark of Alamakee, Clarke of Henry, Clarke of Johnson, Edwards, Ells, Gillaspy, Gower, Gray, Hollingsworth, Johnston, Marvin, Parvin, Patterson, Price, Scott, Seely, Skiff, Todhunter, Traer, Warren, Wilson, Winchester and Young.

Nays—Messrs. Ayres, Emerson, Gibson, Hall, Harris, Peters and Solomon.

Mr. CLARKE, of Johnson, when his name was called, said: Before giving my vote upon this question, I desire to say that, as the records of this convention will show, there are several articles embodied in this constitution which do not meet my approbation, which I believe to be wrong, and which I fear will result in evil to the people. On the other hand there are many articles in the constitution which meet my warmest approbation, and which I think, if it becomes the fundamental law of the land, will secure better than our present constitution, the individual rights of the people. I shall, therefore, vote for the passage of the constitution, reserving to myself the right to determine, upon mature reflection, as to my vote at the polls.

Mr. GILLASPY, when his name was called, said: I have not asked to be excused from voting since I have been a member of this convention; neither do I ask now to be excused. But I desire to say that there are many articles of this constitution which I have voted against, and to which I am opposed. I have not yet made up my mind whether to vote at the polls for the

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constitution or not. There are some new provisions in it which I think are very good, which the people demand and wish to adopt. Reserving to myself the right to vote as I think proper at the polls, I now vote—aye.

Mr. JOHNSTON, when his name was called, said: There are many things in this constitution which I do not like; but there are many things which I do like, and I think the good greatly preponderates over the evil. I vote—aye.

Mr. PATTERSON, when his name was called, said: I am very much in the same situation with some of my friends. As I stated this afternoon, I have to-day signed a protest against a part of this constitution, and there are other portions against which I have recorded my vote. Reserving to myself, (as of course we all have the privilege of doing,) the right to decide hereafter as to my vote at the polls, I will now, more particularly in behalf of a portion of my constituents, vote—aye.

Mr. WINCHESTER'S name being called, his vote was recorded in favor of the constitution, at the request of Mr. Edwards, in his behalf.

Mr. CLARKE, of Henry, the calling of the roll having been completed, said: Before the President declares the vote, I wish to put myself right upon the record with regard to my vote upon the constitution. It is well known that there are many things in this constitution which do not meet my views at all. I do not like the article on school lands and the school fund, and there are other things I do not like at all. I do not like that word "white" at all. I want no such distinction. But inasmuch as the convention have allowed me to submit to the people the question upon the right of suffrage as a separate question, I am tolerably well satisfied with it. But while I do not like the whole of the constitution, we have made some very great improvements in our bill of rights, and in some other portions of the constitution, which meet my approbation. As a whole, I concluded to vote for it here; but I shall reserve the right, and, as the gentleman from Marion, [Mr. Gibson,] has said in defining his own position upon another question, I want members, and especially the gentleman from Clayton, [Mr. Scott,] "distinctly to understand" that when I come to the polls, I shall vote just as I have a mind to.

Mr. MARVIN. I presume that we would all like to tell wherein we do not and wherein we do like the new constitution; but I would suggest that the vote be announced, and our business finished, and afterwards members can hold a class-meeting and tell all about it.

Mr. HALL. The result of the voting for the last two days will show that I have voted for every article of the constitution but two. I have recorded my vote against the constitution because I think that these two articles contain errors which I cannot sanction even when mixed with the good contained in the other articles. I do not wish that it should be understood here or elsewhere that that vote will be repeated at the polls. I shall then act in a different capacity from that in which I act here, and the principles which govern my vote at this time, will not govern my vote then.

The PRESIDENT declared the revised constitution adopted by the convention.

[The old and the new constitutions will be found published in parallel columns, at the close of these debates.]

Enrolling Clerk.

Mr. JOHNSTON. I understand that the enrolling clerk, whom we have employed, after having performed a portion of his labors, finds that is necessary for him to go all over it again on account of the verbal changes made by the committee this evening. He has been allowed, under a resolution reported by me, the sum of twenty-five dollars, which, for the work he has to perform, is a low sum. I now ask the general consent of the convention, without reconsidering the vote upon the resolution granting compensation to our clerk, that ten dollars be added to the amount on account of the work that he has to do over again.

No objection being made the order was agreed to.

Postage on future Mail Matter.

Mr. CLARKE, of Henry. There will be an accumulation of mail matter here in the post-office, after we shall have adjourned, which must be provided for in some way, or those members who expect letters to arrive here after we adjourn will be obliged to leave money, or make some other arrangements to have them forwarded to them at their homes. It seems to me that it would be nothing more than right that we should make some provision to forward this matter to members at their places of residence. I therefore move that the committee on expenditures be instructed to report a provision to defray the expense at the post-office. I do not think the resolution we adopted, appointing our paper folder to forward this matter to us, includes the item of expense, for which I think we ought to make an appropriation.

Mr. JOHNSTON. That depends entirely upon the construction put upon the resolution in regard to the paper folder, whether we intend the thirty dollars merely to pay him for his trouble, or that he must pay the necessary postage also with that money.

Mr. CLARKE, of Henry. If the resolution could be so amended as to require the boy to forward us only our letters, the amount we have agreed to give him might be sufficient to pay the postage, but not otherwise.

The PRESIDENT. It can be so amended if it be the pleasure of the convention.

Mr. SCOTT. It seems to me that if this messenger, or paper folder of ours, is expected to pay

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the postage and to forward our mail matter to us, he will be very scantily paid with the thirty dollars we have appropriated to him. Our papers should be forwarded to us, as well as our letters, and according to the experience of our legislature, our mail matter may continue to arrive here for three or four weeks after our adjournment. It will be necessary for the boy to be at the post-office at the coming in of every mail. And if he is to purchase stamps with this thirty dollars, he will have but little left to pay him for his services. Now I think that if we exercise liberality at all, it should be in this case. I think it would be about right to let the boy have the thirty dollars for his trouble, and have the postage charged to the state. Otherwise the boy will get but little. It might be, and I think it highly probable that it will be, that the postage would exceed the amount we have appropriated. I hope it will be so arranged that we will get our papers as well as our letters.

Mr. SKIFF. I move that the resolution be so amended as to allow the thirty dollars to the messenger for his services, and that the postage be charged to the state. I do this in order to test the sense of this convention.

Mr. TRAER. I hope it will be understood that our papers, for which we have paid, will be forwarded to us.

The resolution was amended accordingly.

Personal and General Explanations.

Mr. HALL. I rise to a matter personal to myself, of an exceedingly unpleasant nature to me. But on more than one occasion since this convention has been in session, certain members have seen proper to allude to that old, stale slander in relation to the Mormon poll books. Now, sir, if those members are satisfied that these allusions have strengthened their arguments, added dignity to the deliberations of this convention, or increased their own personal reputation, I would be the last person in the world to object to them.

And allow me to say here, that this is the first time during the considerable number of years that this report has been circulated about me, that I have ever deigned a notice of it. That story heretofore has always been confined to the pot-house and the purlieus of the blackguard during the time of an excited election. This is the first time under any circumstances, that persons occupying the position of gentlemen, have ever alluded to it in my presence. But inasmuch as certain persons have seemed to find a pleasure in alluding to that old, vile slander, I must say that so far as it touches my conduct as an honorable man, or imputes to me dishonor or wrong-doing, it is as false as the heart that utters it.

Those who desire can know—and those who do not, should not speak—that my connection with the matter was entirely involuntary; that it was in consequence of the base act of another; that my conduct in that matter was not subjected, even by my worst enemies at the time, to any severity of censure. I have never felt myself in the remotest degree, any consciousness of having been guilty of even an impropriety of conduct. Now, why, when these our debates were to be handed down to posterity should gentlemen,—no, I cannot say gentlemen, but—why should persons have dragged in this base slandere here, if not from some base malignant motive? I do not know of any other motive,—there can be no other motive.

I do not speak of this matter, because I feel injured by it. I have lived too long, and am too well known, to be affected by these contemptible allusions. What little character and reputation I now have, I expect by an honorable course of conduct to retain during the remainder of my life. I hope that those whose good opinion is worth anything, will overlook my follies and faults and forgive them, and if they remember them, that they will recollect that "to err is human, but to forgive is divine."

These allusions will never deter me from exposing wrong, whenever and wherever it is manifested, nor shall it answer as a plea in abatement for those who are guilty. If there is no other argument to be opposed to me, then I feel certain that my cause is safe. When I have charged that this convention have given the control of this government to a minority of the people of this state, my indictment is complete; and when I have proven it, my case is made out. If for the convention to do this is not wrong, then am I guilty of false clamor. But if the majority of the people have an inherent right to control the government, then to that extent has wrong been done by the schedule that has been adopted.

These miserable and futile slanders do not affect me, or the truthfulness of the charge I have made. I do not refer to them as a matter of grievance, but merely because I now have an opportunity to place upon record in the debates of this convention, the assertion, which I now make for the first and last time, that the imputation that has been thrown out against my conduct in that matter, is a base falsehood. The slang that has been used here about me, is only that kind of slang that would be used by no gentleman.

Mr, CLARKE, of Henry. I must say that I very much regret that this discussion should have sprung up here, just as we are about separating, and when we should entertain toward each other the kindliest and friendliest of feelings.

I regret very much that the gentleman from Des Moines [Mr. Hall] was not present during all of the discussion that took place to-day, and did not hear the remarks that were made. And I regret more that any one should have gone to that gentleman, and given him an exaggerated statement of the remarks that were made here.

The gentlemen who stood up here as the champion of the gentleman from Des Moines—

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the worthy gentleman from Appanoose [Mr. Harris]—undertook to give a construction to the language of the gentleman from Jefferson [Mr. Wilson] which was not intended by that gentleman, and which could not have been properly given by any person to the remarks which he made here.

Because the gentleman from Jefferson [Mr. Wilson] saw fit to speak in regard to the language of gentlemen used in this protest, and which he considered as very obnoxious, and as carrying with it the charge of political dishonesty toward the whole body of republicans here, because he made the remark that this charge came with ill grace from gentlemen whose past history was most connected with political transactions in this state, with which this would bear comparison without danger—because he said this, or something to that effect, the gentleman from Appanoose [Mr. Harris] took it upon himself to say that the gentleman from Jefferson meant "poll-books." The gentleman from Jefferson did not say "poll-books" at all, did not utter the word. It was the gentleman from Appanoose who first used it; and that gentleman and myself are the only persons here, who have uttered those words upon this floor, so far as I know.

I suppose, from the remarks of the gentleman from Des Moines [Mr. Hall], from his using the plural, "persons," that he intended that I should come in for a portion of the lecture he has read this convention this evening. Yet, certainly, from the manner in which I used those words, the gentleman could not appropriate them to himself. That gentleman, in a discussion here, took occasion to refer to my being a candidate, in language, which at the time I thought was directly personal and severe. He said that one good reason why I would not be a candidate in our district, was that I was too well known there; and that I would, therefore, prefer to be a candidate in the state at large, where I was not so well known. I replied to the gentleman, that he need have no fear at all of my being his opponent; that I was one of those persons, who, however well they might run, were always unfortunate at the end of the race; and that if I ever did enter the political field again, I should hope that some one would look after the poll-books.

That is what I said. Now, let me tell the gentleman what I meant by it. I will go with him into Jasper county, and show him where, when I was a candidate at a late election, the poll-books of two of the townships were rejected. I afterward went to the office of the county clerk, and to the office of the county judge, and found no poll-books there, though the law required that a copy of them should be kept on file there. The clerk said both of them had been taken upon a summons of the county judge, and could never afterward be found. I went into the western part of the State and obtained evidence that the poll-books of many townships where I had received majorities, were rejected because the clerk of the board of canvassers had not affixed his signature to them, or some such cause as that. I, therefore, had very good reason to say that if I was again a candidate, I trusted there would be some one to look after the poll-books.

I am not one of those who like to go into the past to rake up these matters that ought to sleep "the sleep that knows no waking." I am not one of those who like to wake up any old charges of corruption, who like to refer back to the political history of any man for such purposes. I believe that my course upon this floor has been governed by regard for principle. I believe a majority of the members will bear me out in saying, that I have stood up here for principle, when I knew that by so doing I rendered myself personally obnoxious to those who were acting with me politically. I do not wish to appeal to political party prejudices and feelings. I think such a course here is altogether wrong.

I think that when gentlemen brought in this protest here, they acted wrongly. I know that some of them were honest in protesting against this schedule, because they perhaps thought a wrong had been done them by it. But I think it was because they were ignorant in regard to the subject; they had not looked into it far enough to understand all its bearings; and they came in here and made some intemperate remarks in relation to it, which should perhaps have been allowed to pass without notice. But let them have their protest, because the protest and their own acts stultify each other.

Now, let us examine this matter a moment, as all this has grown out of it. When I stood up here some time ago, and took the position that, as far as I was concerned, I should go against putting any person out of office, unless he was necessarily put out by the operation of this constitution, in doing away with his office, or in some such way, the gentleman from Des Moines [Mr. Hall] and others of his party, at once attacked my position, which was discussed at some length here. What did they say then? Why, that we must allow the people to send up officers here, fresh from their midst, where all these questions had been fully discussed when they were up as candidates to represent them. And when we considered the article upon the legislative department, as we passed over that article, section by section, they joined right in with us here, and their votes will show it, and said that the first legislature under this constitution should do—what? That that legislature should re-district the State, and apportion it upon a certain basis. Now, if the first legislature are to do that under this constitution, I ask gentlemen if we had provided for a new legislature, without saying in this schedule anything about the apportionment, upon what basis would they have been elected? They could not have been elected upon the apportionment fixed by this constitution, for we had not districted the State, but had distinctly and positively pro-

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vided that the first legislature under this constitution should do that.

It is astonishing to me that gentlemen can so stultify themselves, as to bring in such a protest here, and put themselves upon the record as charging the Republican party with having done this for the purpose of obtaining political power. Why the Republicans are in power now; they have both branches of the legislature, and they could have gone on with that legislature and enacted laws under this constitution, and put it in operation, as they pleased. Yet those gentlemen now get up here and say they will stand by me and not have any of those officers put out. Why did they not do so a while since, when there was enough of our party to act with them to have carried that plan through, and not have removed a single officer in the state, except such as were necessarily turned out by the operation of this constitution? Why did they not see fit to stand by me then? That was my position, and I have acted consistently upon it.

When it was generally understood that the general assembly should be turned out, on account of the great clamor here, we had to provide for their election, either upon the basis of apportionment already established by law, or else review our whole action upon the article upon the legislative department, and re-district the state by constitutional provisions, in order to elect them upon the basis of apportionment established here. The moment the committee on the schedule concluded to act upon the idea so eloquently urged here by the gentleman from Des Moines, and provide for the election of a new legislature, they were, per force, obliged to provide for their election according to the basis of apportionment already established by law.

Now I do not believe that apportionment is what it is claimed to be upon the other side. I do not know the features of that apportionment. All I know is that it is a law of the state, and that we are not sitting here to repeal laws. We must either proceed to district the state in this convention, sit here for perhaps a week longer discussing the question in regard to apportionment and districting the state—a question the most difficult and complex that could be sprung among us—we must either do that, or take the legal apportionment already in existence. Gentlemen see this now, when they come to look at it. Then why come in here and impugn the motives of those who have acted in this matter? I know that gentlemen do not impugn my motives, for I have urged all along that the legislature should not be turned out, that all our officers should serve out the term for which they were elected. They cannot, therefore, charge me with having done wrong in this matter. Neither should they so charge those who have acted upon a different idea.

Now this is all the trouble about it; let us own right up to it. Gentlemen are in the condition of a man who is playing high, low, jack and the game, and looks in his hand and sees that he has neither ace, face nor trump, and therefore is in for a new deal. They have got their slates and pencils and figured up, and find that they have not a good hand, and so they go in for a new deal—are for turning everybody out of office, so that they may have another chance. Now, so far as I am concerned, I would just as lief they should have the chance. But I would say to the gentlemen, if you were the ins and had the offices now, would you think it fair, after you had been through with all the expense and labor of the election, and had just got into office, would you think it fair for a set of men to come up here and frame a constitution to turn you all out of office, heels over head? Would you think that right and just?

I have stood up here battling for the rights of a small class, and asking that justice should be done them. If I knew that there was but one colored man in the state, and that not another one could come into it, I would argue and vote just as strongly against this word "white" in the constitution, as I do now. And so it is in this case. It is not right to turn these officers out, whether Republicans or Democrats, few or many; it is not right at all.

Mr. EDWARDS. If the gentleman will give way, I should like to introduce a resolution.

Mr. CLARKE, of Henry. That depends very much upon what it is. [After a pause the gentleman continued.]

There is another thing to be considered. We have established a new basis of apportionment in this constitution. I have condemned that basis all along. I have shown where I thought it was unjust in its operation. Gentlemen say in regard to the apportionment established by the General Assembly—though I do not know how it is—that it ostracises a large portion of the inhabitants of this State, and allows them no representation. Now if that is so, if the General Assembly have gerrymandered the State with a view solely to secure a republican majority in the legislature, then they have done wrong, and should be condemned by every honest man. Whether that is so or not, I do not know.

Now I have got up here and opposed the apportionment in the constitution all along, and shown where it is wrong. If the ratio of representation is fixed at ten thousand, it allows five thousand men the same representation that it gives to fourteen thousand nine hundred and ninety-nine. Now that is all wrong; and yet gentlemen upon the other side let it be placed here. Why? I will tell you why I think they did so. Because these amiable gentlemen, who have come in here with this protest, have got their slates and pencils, and figured the thing up, and have found out that they can make the most under this constitutional plan of apportionment, and, therefore, they say it is right. Why is it right? Because they can make the most under it; that is all. Well, all I can say to them, is, that if they have not got it now, they will have it bye and bye. If they wait a little,

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the wagon will come along soon, and then they can all take a ride.

We must take the apportionment as already established by law, or else proceed to re-district the State, under the apportionment established here. Now I do not believe that the committee on the schedule, or the republican party in this convention, have been operated upon by any partizan policy at all in this matter. Now I do not believe that other members of the republican party—I know it is so with the gentleman right around me here—are virtually working here for party purposes, and party effect. These gentlemen around me here, I know, are just as ignorant of this apportionment as I am. We must go to work and re-district the State, or take the system already established; they have concluded, therefore, to take the one already in existence.

Now in regard to the history of the two parties here. I do not believe in getting into such questions here at all. I do not believe in going back and ferreting out what particular men of either party have done, or for what purpose were any of their past deeds. I should dislike very much to go back with the gentleman from Jefferson, or any other gentleman here, in regard to the transactions, and history of the democratic party, in reference to gerrymandering of this kind, for fear I might hurt my friend Alamakee, [Mr. Clark,] or my friend from Muscatine, [Mr. Parvin,] and a number of my other friends over the way, who were whilom good democrats, but are now acting with the republican party. It is rather a delicate subject, and I would not advise gentlemen to go back very far into the history of the past, for some how or other, we are all mixed up together there.

But there is one thing, which has been the topic of discussion here, and to which I should not recur, had not the gentleman from Appanoose [Mr. Harris,] given to the transaction an incorrect history; and a false coloring. And even with this history, and this coloring, I would suffer it to be buried in the dead past, had not that gentleman further assured us that a high sanction had recently been given to that transaction by the Senate of the United States. Of course he means the democratic portion of that Senate. I refer, sir, to the election of Senator Harlan, in January, 1855. It is true, as the gentleman says, that the two Houses met in convention a number of times, and balloted without success. And the gentleman attaches blame to the republicans for not having elected during these ballotings. He says the democrats got tired of these fruitless attempts. That the party electing Mr. Harlan were in a majority in both Houses!

It is true that in the other House there was a republican majority. But in the Senate it was otherwise. The gentleman would not certainly claim that all those who occupied seats in this chamber, and who claimed to be "silver gray whigs," were also republicans, and favorable to the election of Mr. Harlan!

He knows better than to put up such a claim. He knows that some of those whig senators were "silver gray whigs," after the most modern acceptation of that term,—"to drink bad whisky and vote the democratic ticket." He knows that with the vote of Mr. Bryan, who was kept in the seat of a good republican—Mr. Jordan—for that purpose, enough of these modern whigs acted with these modern democrats, to give them a majority. Then why this attempt to hold the republican party responsible for the failure to sooner elect, and for the disgraceful attempt to defeat an election, by dissolving the joint convention, through a corrupt conspiracy between these modern whigs and democrats, to adjourn the senate over the time fixed for the next meeting of the convention?

There is no use, Mr. President, for democrats to attempt to excuse, palliate, or disguise this matter. The more it is stirred, the more it will offend. And I scarcely know which I am the most astonished at, the temerity, or the folly, of the gentleman from Appanoose. There were too many witnesses of the transaction, for prevarication or misrepresentation to meet with success. I myself was present in these halls on that occasion. And I well recollect that on the evening of the fourth of January—I think it was—a caucus of the republicans was held, and it was universally public the next morning, that the republicans and a part of the whig vote of the house would be concentrated upon Mr. Harlan, and would ensure his election. I heard the matter talked over in the streets early that morning; and when I came into this hall, a democratic officer of the senate said to me, "What would your folks do if the senate should refuse to go into convention this morning?" The question startled me. It led me to suspect, what was in fact the case, that a conspiracy was on foot to defeat an election. I immediately left the hall to consult with some friends, and as I returned I met the democratic senators with their president—the gentleman who has recently been nominated as superintendent of public instruction—leaving this chamber and rushing down stairs as though they were fearful that a moment's delay might place them in the reach of the sergeant-at-arms. When I came in here, I found the republican senators astonished and indignant at this premeditated and contemptible trick. By a strict party vote these modern whigs and democrats had adjourned the senate over the time of the meeting of the joint convention, and had rushed, like guilty culprits, from the capitol.

I would only add, that at the hour to which the joint convention stood adjourned, a call was made—some democrats answered and participated, the balance were excused. And a full quorum appearing and participating, Mr. Harlan was elected by a majority of all the members of both houses.

And the gentleman from Appanoose is mista-

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ken in supposing that this proceeding on the part of the democratic senators, has been sanctioned by the Senate of the United States. The Senate of the United States has merely decided that these runaways were only too successful, in their dishonest and dishonorable attempt to defeat the will of the majority, and that Mr. Harlan was, therefore, not legally elected. Since then, sir, the people of the State have placed the stamp of their estimation upon it, and Mr. Harlan is now occupying that seat of which democratic trickery would have defrauded him, and from which democratic tyranny has once hurled him.

Again, Mr. President, I must express my regret that this political discussion should have sprung up here just on the eve of our separation, when I had hoped that every thing of a bitter or unpleasant nature, of a partizan or a personal character, would have been avoided, or if referred to, only as of things which had been; or things which should be buried forever in oblivion.

It has been drawn out by the unwise and impolitic thrusting forward of that unjust, and ungenerous, and uncalled for protest. Those who signed that protest in ignorance, I am willing to forgive. Those who signed it for political effect, I am anxious to forget.

There is one thing, Mr. President, which I ought to have touched upon in connection with the democratic action in the senate in regard to Mr. Harlan, and that is the recent fraudulent elections of Bright and Fitch in Indiana.

Mr. SKIFF. Mr. President, I call the gentleman from Henry, [Mr. Clarke,] to order.

The PRESIDENT. The gentleman from Henry has spoken beyond his time.

Mr. WILSON. To-day, when this paper was presented here, I intimated that I should have no objection to its being received, provided a majority of the committee on the schedule could have the right to present an answer in reply to this protest. I have looked that protest over since that time, and, judging from the subject-matter contained in it, and the various ingredients incorporated in it, I am willing to let the protest go with the journal as its answer, and shall, therefore, take no further steps on behalf of the committee to reply to it, and shall not ask the convention to grant us the privilege of presenting a formal reply to it, believing that it is answered completely by the journal.

Mr. JOHNSTON. As this evening seems to be considered a good time for settling up old scores, I desire to say a few words in relation to a matter, in justice to myself and some of my friends now absent. I speak of it because it is important that the truth should appear in the debates of this convention. I do so the more cheerfully because there is nothing in the matter of a personal or unkind nature, and, therefore, I hope the convention will listen patiently to the few words I have to say.

The other day, when we had presented to us the question of the permanent location of the State Capitol and the State University at this time, the gentleman from Johnson [Mr. Clarke], in speaking of the different asylums and their locations in this State, stated that the commissioners, who had located the insane asylum at Mt. Pleasant, had done so in violation of law. I do not mean that he had said that the location was made in violation of law, but that they had exceeded their powers, and thus acted in violation of law. I do not suppose that the gentleman from Johnson [Mr. Clarke] intended to reflect personally upon the conduct of those commissioners.

I would not at this time notice the matter, because I have heard something of the kind before, unless it had gone irrevocably upon the debates of this convention. But being one of those commissioners myself, I think it is not proper for me to sit here and listen to this, without endeavoring to let this convention, and the world through our debates, know the truth about this matter. I think it is due to myself, and to my colleagues—one of whom is now the Governor of this State, and another (Doctor Clarke) is a constituent of the gentleman from Henry, [Mr. Clarke]—and it is important, too, that the people of this State should know something about this matter. And although it is not kindred to any report that has been before this convention, I think it is as much so, and will be as agreeable to members of this convention, as what we have already heard here this evening.

In the winter of 1854 and 1855, the legislature of this State made an appropriation of fifty thousand dollars to commence the building of an insane asylum. The limitation was fixed at fifty thousand dollars, but a mere commencement of the building was contemplated. The Governor of the State, Doctor Clarke, and myself, were appointed commissioners; and in accordance with the direction of the legislature, we proceeded to the East for the purpose of examining other institutions of a similar kind through the States. We found that the legislature had had very little idea of what was actually needed for such an institution, and indeed we ourselves had no idea of the magnitude of the subject. Having consulted the most eminent authorities in relation to that matter—among others, Doctor Kirkbright, of Philadelphia, and Doctor Bell, of Boston—we were advised by them not to attempt to erect any building for fifty thousand dollars. They told us further, that it was impossible to erect a proper building of this kind, unless it was erected as a whole—as an entirety.

This was in the spring of 1855. Prior to that time the commissioners had received letters from every part of the State. We heard that there were human beings in this State howling and gnashing their teeth in all the ungovernable phrenzy of madness and insanity. That there were chained by the legs in out-houses, and otherwise disposed of, in the most miserable con-

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dition, at least one hundred or one hundred and fifty people all over this State. And the question forced itself upon the commissioners, whether they would abandon the attempt for the time, and wait until the session of the legislature for 1856 and '57, before they would do anything in regard to the matter, or take the responsibility upon themselves of building such a building as the wants of this unfortunate class of people demanded, and the dignity and the honor of the State required. In view of the situation of these unfortunate beings, the commissioners determined to take the responsibility of building such a building according to the most approved plan, and the latest model of construction. The legislature met, the same legislature that had appropriated fifty thousand dollars; they met in extra session the following December. And this same legislature, upon being informed verbally, for the commissioners had not time to make out a report, of the situation of the insane throughout the State, and the importance of having a different building from that they had contemplated, this legislature repealed the limitation which had been before placed upon the commissioners, and made another appropriation of fifty thousand dollars.

Now the commissioners did not act in violation of law. There had been nothing done up to that time by the commissioners, but what could have been repealed by the legislature, and nothing been lost. And again, at the last session of the legislature a report was made by the commissioners to the legislature, stating all the facts, somewhat in the same manner as I have stated them here, this evening. And that legislature made another appropriation of forty thousand dollars. And the only reason they did not make an appropriation of one hundred thousand dollars, was that there were constitutional restrictions, as they supposed, against going over the sum of forty thousand dollars.

This is the truth of this matter, and I desire to have it go upon the record along with what has been said by the gentleman from Johnson, [Mr. Clarke.] I take pleasure in saying, that I do not suppose that the gentleman had any intention to reflect personally upon the commissioners. But when the statement was made that the commissioners had acted in violation of law, it was important that I should get up in my place here, and make the statement I have made. I would have done so before; I would have done so at the time, but the previous question was called, and I have not had an opportunity since, until now.

There is another matter I should like to speak of now very briefly, not because it relates to me personally, but because it is a matter of public interest. I refer to the location of these asylums. There was something said in the debates here about all these institutions being located in the southern part of the State. There was an attempt, as I thought, to array one portion of this convention against the other on that ground. Now let me say that it will not be long before the State will require another insane asylum. There are, at this moment, in this State, one hundred and fifty persons who ought to be inmates of a hospital for the insane. And two hundred or two hundred and fifty persons are all that can be accommodated in one building. And but few years will pass away before we will require another in the northern part of the State, because it is well known that great injury results to this class of persons, by being carried a great distance.

Now another word in regard to the expense. It was said that this building was expensive; gentlemen emphasized that a great deal. It is true that, so far as regards dollars and cents, that building is expensive. But it is just the kind of building that class of sufferers demanded, and no other building would answer the purpose. It is a building planned by the highest authority in this country in those matters. And it is a building which we will be proud of in the future.

Now let me say one word about these buildings, and then I will dismiss this whole subject. We find that no building of the kind can be properly constructed in this country for less than two hundred thousand dollars or two hundred and fifty thousand dollars; that is the lowest amount fixed by medical superintendents of the insane, and some go even beyond that. And as I before remarked, only some two hundred and fifty or three hundred persons can be accommodated in a building of this kind. So gentlemen will see that it was impossible for us, acting not only under oath, but in view of the responsibility of the position in which we were placed in regard to this unfortunate class of people who were scattered all over the State, to decide otherwise than to erect a building as their wants required, and such a building as would hereafter add to the honor and dignity of this great State.

Mr. CLARKE, of Johnson. This seems to be an occasion for the settlement of old scores, and I am willing to do my part in the settlement of any which may be marked against me. It is true, that in the debate upon the removal of the capitol, I did charge these commissioners with having violated the law in the location of that asylum, and in the contract made for the erection of the building.

Mr. JOHNSTON. There was no contract made.

Mr. CLARKE, of Johnson. I regret that I have not the law authorizing this action of the commissioners; but their report is before me. My impression of the law is this: that it authorizes them to provide for the erection of a building, which would be capable of enlargement, but that the cost should not exceed fifty thousand dollars. And I remember, while this convention has been in session, of accidentally picking up a report of the commissioners, in which, if I mistake not, they themselves admit that they went beyond the premises of the law.

I do not allude to this fact for the purpose of

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censuring these gentlemen, whose efforts to ameliorate the condition of the insane are worthy of all commendation. I did not desire the other day, nor do I desire now, to cast any reflections upon any of these gentlemen.

I frankly admit, that they did what they deemed to be their duty under the circumstances. I have no doubt they acted wisely and well. But if gentlemen, when they go home and turn to the report made by the commissioners, do not find that they confess themselves that they have gone beyond the terms of the law, I will very frankly own that I am mistaken. I deem it just to myself to say, that while I derive this information from that source, I feel it a duty I owe to myself and to these gentlemen to say that I believe they acted from correct motives and they acted as I trust every gentleman here would have acted in reference to that class of our population.

I do not not want it to go out from this convention in our debates, that during the course of this session I have impugned the motives of a single gentleman, either upon this or any other question. And if the debates bear that construction, I now desire to disclaim any such intention, either with reference to the gentleman alluded to in the debate, the other commissioners, or any other gentleman upon this floor.

I desire to make another remark here and it is this: I regret very much the subject of discussion to-night. I feel that it is unworthy of the position we occupy, and unworthy of us as men. We have been here for nearly seven weeks, engaged in the performance of the highest duties that can be committed to us as men; in the duty of framing a constitution to protect the rights of our fellow-beings. And it has necessarily happened that in the excitement of debate, and in the conflict of interests which have been here presented, some feeling has been elicited, and many unkind words have been spoken. But I do trust the sentiment of the resolution now lying upon the secretary's desk will be cordially responded to by us all.

I take this occasion to say, that if, in the course of this debate, I have indulged in any severe criticism upon the conduct of others, I feel that I have had my full share in return. And I desire that when I shall leave this hall, and when I shall resign the position which I now occupy, and become again a privite citizen, to bury every feeling of ill-will, every feeling but that of kindness towards every member of the convention. My desire is that we shall part here as friends and not as partizans. However differently we may view the procedings of this convention, and the result of its labors, I hope at least that when we leave here, no member will entertain any cause of offence or unpleasant feeling towards another for anything that has been said or done here. Such is my feeling and desire, and I do trust that the spirit of crimination and recrimination, which has been indulged in here, will from this time cease, and that the closing hours of the convention will be marked by universal good feeling and harmony.

Mr. EDWARDS offered the following resolution:

"*Resolved*, That all personal differences which have occurred between members during the sittings of the convention, be sunk in oblivion and forgotten from and after this date."

Mr. HARRIS. This resolution accords precisely with my sentiments. However excited I may have appeared at any time upon the question I was discussing, I am not aware of having entertained an unkind feeling toward any gentleman; and in what I said I did not intend to excite the angry feelings of any gentleman here; and I regret sincerely that anything of the kind should have occurred.

Mr. EDWARDS. I hope the resolution may be unanimously adopted, in spirit as well as in word. For about seven weeks we have been confined here in the arduous and responsible duty of making a fundamental law for the government of the people of this State. It was to be expected that many questions of a political character would arise, that would produce conflict of opinion; and that in the heat of debate many unpleasant words might be spoken. But I trust there is no member upon this floor, when he thinks that soon we will all be wending our way to our distant homes, perhaps never again to meet in this world, who will entertain any bitterness of feeling toward any of his fellow-members, after he shall have passed the threshhold of yonder door.

If, by any word or act of mine, I have expressed myself in so emphatic a manner in debate as to have wounded the feelings of any gentleman here, it was not done intentionally, and I exceedingly regret that I should have made any such remark. I can say to-night, in all sincerity and truth, that I can leave this hall with the kindest feelings toward every gentleman upon this floor. I shall look back with pleasant emotions to the hours that I have spent within these walls. The associations that I have formed here will be among the most pleasant I have ever experienced, and I can truly say that the time spent here has been one of the happiest periods of my life. I hope that the same spirit will animate every member upon this floor.

Mr. PARVIN. I cordially indorse the sentiment contained in the resolution. We met here some time since, right upon the eve of an excited Presidential election, elected as delegates to this convention, most of us upon party issues. I think, therefore, it is a most remarkable fact that, as a general thing, there has been an entire absence of party feeling in the debates that have occurred here. I was struck with a remark I saw in a communication in a Davenport paper a day or two since, upon this subject; in which the writer remarked that a stranger coming in here and listening to the debates would not suppose that there were any partizans here;

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that there was nothing of the kind exhibited here that would induce a stranger to think that the members were elected upon party grounds. We were sent here for a higher and nobler purpose than to display any partizan feeling, and I rejoice that it has been overlooked in the one great object of securing to our young and glorious State a constitution such as will give satisfaction to the people of the State, and afford a sure and stable foundation for our future prosperity.

There is probably not an individual here who has secured everything in this constitution which he would have desired; but as a whole we have endorsed and adopted it by a very large majority, and I trust that our action will be sanctioned by the people in the adoption of our labors here. I hope, when we take the parting hand, as we shall soon do, that we may entertain for each other that fraternal feeling which should ever actuate such frail beings as we are. It was remarked by the gentleman who just took his seat, that we should perhaps never meet again on earth. In looking at the ambrotypes of the members which hang upon yonder wall, the thought occurred to my mind, who first of us will go the way of all flesh? This we know not, but certain it is that we are all going, sooner or later, "to that bourne from whence no traveler returns;" and whatever party feeling may have ever actuated us will soon cease to actuate us any more.

Now it becomes us, as beings who are soon to meet our judge, to bury every feeling of ill-will towards each other. Let us then, in the spirit of the resolution, sink in oblivion all the unkind and uncharitable feelings which we may have entertained for each other, and let us carry out that beautiful sentiment which is so fraught in meaning, "Brethren, write your friendships in marble; your enmities in the dust."

Mr. WILSON. I can vote cheerfully for the resolution now pending before the convention. It has been my misfortune during the deliberations of this body to be compelled to engage—I use the word *compelled* for I know none better—in discussions which have been of a personal character. I believe, however, that the records of this convention will bear me out in the declaration, that in no instance have I commenced a discussion of that character. Such discussions are not desired by me, and I never will engage in them until I am attacked. But they have passed now, and the relations which have existed between the members of this body are about to be broken. For one, I can certainly say with truth, that I can go from this hall with kind feelings towards every member of this convention. I do not desire to carry, nor will I carry, from this hall any harsh feelings towards any member of this body, for any thing that has occurred here. I believe this is the spirit in which we should all part.

Our relations and associations here have been pleasant, and I must say that during the deliberations of this body, I have formed attachments for some members, as strong as any I have ever formed in my life. This being the case, I shall look to the period of time consumed by the deliberations of this body with as much pleasure as upon any period of my life. If it were for nothing else than the associations with which I have been connected, while occupying a seat upon this floor, I should return my thanks to that portion of the people of this state who have given me the position which I occupy here, and I know that the feeling which I now have in that respect will continue through life. I hope that we shall all part in friendship, and although what has been said and done here will have to go to the world upon the records of the convention, and although probably no member would have acted differently under the same circumstances, and perhaps we should act in the same manner again under similar circumstances, yet I think we can, when we adjourn here, adjourn with the kindliest feelings towards each other. I simply say in conclusion, that I shall cheerfully vote for the resolution not only in letter, but in spirit.

Mr. ELLS. Mr. President: In this last hour of the convention, I desire to make a single remark. I came here, sir, under circumstances different from those of any other member. I was an entire stranger to all the gentlemen who compose this body, with the single exception of the gentleman from Jefferson [Mr. Wilson], and I only recollected him as a little curly-headed boy in the streets of Newark, Ohio, when I resided in that state, many years since. Then, too, as now, I was laboring under the additional misfortune of imperfect hearing. Yet, notwithstanding all these disadvantages—disadvantages sufficient to deter almost any man from taking part in a deliberative body—I am free to say, sir, that such has been the uniform kindness and courtesy of every member of the convention, that I have felt myself quite at my ease, and have enjoyed as large a share of social and mental gratification as usually falls to the lot of most men. Indeed, sir, I cannot now recollect, in the course of the seven weeks that we have had the pleasure of mingling here, that any gentleman has by any act reminded me of my misfortunes. But, on the contrary, such has been the uniform kindness of all, that I shall carry with me from this convention the pleasing reflection, that I met you as strangers and part with you as friends.

It often happens, sir, that in the heat of debate, hasty expressions of a personal character, calculated to wound the feelings of an adversary, will almost unconsciously escape. Those expressions, sir, are only the ebulitions of the passing moment, and should die with the occasion that gave them birth. I am sensible, sir, that I have said many things, that in my calmer and cooler moments I could wish had never been said—some of the most severe to the honorable gentleman from Wapello [Mr. Gillaspy]. But I flatter myself, sir, that that gentleman will regard them as only the ripple on the placid lake of our conventional friendship.

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In conclusion, sir, permit to say, that here, as in every other relation of life, I desire to write my "friendships in marble and my enmities in the dust."

Mr. PETERS. I regret, as deeply as any gentleman upon this floor, that any unpleasant discussion should have taken place in the convention, and that anything should have fallen from the lips of any member, reflecting upon the honesty or purity of motives of any other member here. I have but a suggestion or two which I wish to offer upon this occasion. I know that we are all more or less in the habit of directing our arguments in such a manner, as politically to cast reflections upon the character of the party and its leaders, to which we are opposed; and we are apt, in the heat of debate and in the excitement of the moment, to characterize and denounce those who differ with us in the most bitter and unmeasured terms. But I doubt whether there is a member upon this floor who in his candid moments would say that because a man differed with him in his political views, he must therefore possess a harder heart, have none of those kind and gentle sympathies which cheer and gladden life.

I shall vote cheerfully for the resolution at this time, after what has fallen from the lips of gentlemen here, and rejoice now, as much as I have regretted before, that I had not participated more in debates, when I might have said something which I should have cause to regret.

Mr. CLARKE, of Henry. However well I may be supplied with words upon other occasions, as some gentlemen may think, I have no words to express what I feel upon an occasion like this. All I can say to gentlemen is, that if I know my own heart, that in my course here I have attempted to be governed solely by principles, and by what I believed to be right. I do not know that I have acted from any personal feelings. If I have made any remarks in the heat of debate, and used expressions which were harsh, I regret them, for my desire is always to let no personal matters influence me at all in the discharge of my duties. I shall leave this hall with the most kindly feelings for all here. And I shall forever cherish in grateful remembrance the associations with which I have been connected here. I can say with truth that if I should ever meet hereafter those with whom I have been associated here, it will be with the most pleasurable emotions.

Mr. GILLASPY. I did not intend to say a word, because I felt conscious that my feelings fully harmonized with the language and spirit of the resolution.

I would not have said a word had it not been for the remark that fell from the gentleman from Scott [Mr. Ells]. He said that he had used harsh language towards the gentleman from Wapello. I would say tot he gentleman from Scott, that I had forgotten it long ago. [Applause.]

I will say here also to other members upon this floor to whom I may have said harsh things, that I hope they have forgotten them long ago, for I have forgotten what has been said in reply to the remarks I have made.

I shall vote cheerfully for the sentiment embodied in the resolution.

Mr. PATTERSON. I wish to make a remark or two, but I can hardly express what I desire to say upon this occasion. I indorse most cordially the resolution now before the convention, for it has proved like oil poured upon the troubled waters. I am happy to see the good feeling that has been brought about by its introduction; for I must confess that I left my seat a short time ago and picked up my hat, with the intention of leaving this hall, for fear that an excitement would be created here which would be unbecoming in the closing hours of a deliberative body like this. Believing as I did, I felt that many unpleasant things might be said here, and I did not desire to be present. But my very warm friend from Jasper, [Mr. Skiff,] insisted that I should stay, and he assured me that we would all depart in peace and good feeling. With my present feelings, and at my time of life, I had no expectation of again taking part in any other deliberative body, when I consented to become a member of this; and when I entered upon the discharge of my duties here, I desired and hoped that the session of the convention would be marked with the utmost kindness and good will. Thus far, our associations have been very pleasant, and I am more than gratified that we shall part with each other in friendship and good feeling.

Mr. BUNKER. For the most part, during the sittings of the convention, I have cast my vote for or against the various propositions that have been submitted here, without thinking it proper to give any reasons for my acts, supposing that gentlemen would understand my motives from my acts. I shall pursue that course in relation to this resolution, which I shall vote for most cheerfully.

Mr. TODHUNTER. I wish to make a few remarks upon this resolution. I have no accounts to settle with any member upon this floor, thank God; and I truly regret that there are any members in this body who may have accounts to settle with each other, or that there have been any unpleasant feeling or bickerings between members here. I came here as a member of this body, an entire stranger to every individual upon this floor, save two, the gentleman from Jasper [Mr. Skiff], and the gentleman from Wapello [Mr. Gillaspy].

I wish it to be distinctly understood by the convention that I heartily endorse this resolution. And permit me here to say, that I never had in my life an association with any set of gentlemen, for whom I had a higher esteem, than I have for the members of this body. I can say with truth that I shall leave this hall with the best feelings for every gentleman upon this floor.

I truly regret—I must say it here—to see the

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personal assaults that have been made upon the distinguished gentleman from Des Moines [Mr. Hall] in this body. These kind of thrusts may do upon the stump; they may do in excited political campaigns; but they should not have been indulged in upon this floor. We did not meet here for any such purpose, and I must say, so far as the gentleman from Des Moines is concerned, that I have as warm feelings for him as for any gentleman upon this floor.

Mr. HALL. It is contrary to my nature to bear malice or anger toward any man; and yet I know that I am too ardent and excitable in my feelings. I came honestly by them, however. I have no personal complaints to make against any one. I took occasion to set a certain matter right this evening, when I had an opportunity for the first time to place a denial of a certain charge upon the records, where it will remain permanently.

I shall leave the convention without entertaining any feelings of unkindness toward any member. I know that at times I have spoken warmly in the heat of debate; but if I have injured the feelings of any one, it was not from any intention so to do. In discharging my duty, I have acted according to the best dictates of my judgment, and I have pursued the course which I thought the best interests of the State required me to take.

Mr. SKIFF. During the sessions of the convention, I can call members to witness, that I have not been a talking but a voting member, and no vote that I have given here in this convention will be so cheerfully given as the vote for the resolution now lying upon the Secretary's table. I vote "aye" for it all the time.

The resolution passed by acclamation.

Adjournment sine die.

Mr. EDWARDS offered the following resolution:

"*Resolved*, That the convention adjourn *sine die*."

The resolution was agreed to.

Before declaring the result of the vote—

The PRESIDENT said:

GENTLEMEN OF THE CONVENTION:

I should be dissatisfied with myself if I should neglect to embrace the opportunity afforded by this closing hour of the session to say a word in acknowledgment of the obligations I am under to you. I feel that my relation to you is that of a debtor, and I regret to add, a debtor of a very unfortunate class—an insolvent one. I have been the constant recipient of your kindness here. It began by placing me in the dististinguished position of your Presiding Officer. New proofs of it have greeted me with each succeeding day's sitting, in the respect and consideration with which my humble endeavors to serve you have been received, and it has now culminated in a formal expressions of your satisfaction with the manner in which the duties of the Chair have been performed.

I know not how to pay the debt I owe you; but while I confess my inability to discharge it, I beg you to be assured of my cheerful readiness to do the next best thing in my power, which is fully to acknowledge it, and to assure you that no statute of limitation shall ever bar it.

To other evidences of your kindness, the recollection of which I shall not cease to cherish, you have superadded the compliment of presenting, for my acceptance, the chair I have had the honor to occupy. As a testimonial of your appreciation of my endeavors to discharge acceptably its duties, I receive it, and not because I think it deserved from any other consideration. I shall respect and prize it as a memento, not only of your generous bounty, but also of the many pleasant days we have passed together here.

Our task is done. The work we have been sent here to perform is completed. The results of our labors and deliberations we commit to the people and to history. The judgment of both we may abide, I think, with undoubting confidence.

How faithfully you have labored in the great work committed to our charge, the record of our excellent Secretaries, and able and faithful Reporters will in part show. For the rest, I can bear cheerful testimony. I am free to say, that for patient investigation, for devotion to duty, for dignity of deportment, for courtesy, propriety and decorum in debate, I am satisfied this convention will compare favorably with any other similar body. We have read of conflicts on the battle-field, where it was said that each man felt and fought as if on his sole arm hung victory. So it has appeared to me that each member of this convention has acted as if impressed with the thought that in his hands was the destiny of the State, and that upon his efforts depended much of her future prosperity and glory.

The holding of such a convention as this, for the purpose of re-constructing the fundamental law of the State, must be regarded as an epoch in our history. To have been members of such a convention; to have been associated together for so long a period in official intercourse, entrusted with the exalted duty of preparing a new frame-work of government; to have labored so anxiously together for auspicious results, and so successfully, too, as I believe, is an event which will remain deeply impressed upon our minds. Nor will that impression be lessened by the thought that this favored country of ours is perhaps the only spot on the face of the earth where such an assembly, for such a purpose, could be held; and ours the only people out of the millions who inhabit our planet, among whom the sublime sentiment, that all political power is inherent in the people, is a practical reality.

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As to the nature and character of the changes you have made in the organic law of the State, I need not here speak. The new constitution will soon be published in juxtaposition with the old. Your work will speak for itself, and so speaking will commend itself to the approbation of the people.

I may say, in brief, that we have added some new and important guards for the security of popular rights, and for the promotion of the best interests of the social compact. Restrictions existed in the old constitution, which it is believed have operated to check and retard the energies and prosperity of the State. These we have removed. We have stricken the fetters from the limbs of the infant giant, and given free scope to resources, capable, as we believe, of working out the highest results.

Few States present a more inviting record than Iowa. We may well be proud of her. Among the youngest of the sovereign States of the confederacy, she has already attained a stature of gigantic proportions. And now, invigorated by fresh draughts from the fountain of republicanism, she will move onward to a position of the first magnitude in the galaxy of American States, presenting a bright example of a free, prosperous, and happy people.

Pardon me, gentlemen, for detaining you with these poor words of mine. The moment of separation has come. We leave our places here, to return to our respective districts, "to the loved sights and sounds of home, to the congratulations of friends, and the applause of satisfied constituencies."

And now, with my warmest wishes for your happiness, and with our hearts filled with gratitude to Him whose providential care has been so signally over us, guiding us, protecting us, and directing us, I proceed to give effect to the last vote you have taken, by declaring this convention dissolved.

The Convention accordingly adjourned *sine die*.

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OLD AND NEW CONSTITUTIONS.

OLD CONSTITUTION.

We, the People of the Territory of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri—as established by the Constitution of that State, adopted June 12th, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the

NEW CONSTITUTION.

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OLD CONSTITUTION.

main channel of said Mississippi river to the place of beginning.

ARTICLE I.—BILL OF RIGHTS.

Section 1. All men are, by nature, free and independent, and have certain unalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Sec. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

Sec. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

Sec. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

Sec. 5. Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

Sec. 6. All laws of a general nature shall have a uniform operation.

Sec. 7. Every person may speak, write, and publish his sentiments on all subjects, being re-

NEW CONSTITUTION.

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Sec. 6. All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

Sec. 7. Every person may speak, write, and publish his sentiments on all subjects, be-

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OLD CONSTITUTION.

sponsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions, or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

Sec. 8. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the papers and things to be seized.

Sec. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts.

Sec. 10. In all criminal prosecutions, the accused shall have a right to a speedy trial by an impartial jury; to be informed of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for his own witnesses, and to have the assistance of a counsel.

Sec. 11. No person shall be held to answer for a criminal offense, unless on presentment or indictment by a grand jury, except in cases cognizable before a justice of the peace, or arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

Sec. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great.

Sec. 13. The writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it.

NEW CONSTITUTION.

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Sec. 9. The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by a jury of a less number than twelve men in inferior courts: but no person shall be deprived of life, liberty, or property, without due process of law.

Sec. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his own witnesses; and to have the assistance of counsel.

Sec. 11. All offenses less than felony and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or other officers authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

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OLD CONSTITUTION.	NEW CONSTITUTION.
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Sec. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and in time of war, no appropriation for a standing army shall be for a longer time than two years.	Sec. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the state in time of peace; and in time of war, no appropriation for a standing army shall be for a longer period than two years.
Sec. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.	Sec. 15. No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.
Sec. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.	Sec. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.
Sec. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.	Sec. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.
Sec. 18. Private property shall not be taken for public use without just compensation.	Sec. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.
Sec. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.	Sec. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a milita fine in time of peace.
Sec. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.	Sec. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.
Sec. 21. No bill of attainder, ex-post-facto-law, or law impairing the obligation of contracts shall ever be passed.	Sec. 21. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.
Sec. 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and descent of property, as native-born citizens.	Sec. 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property, as native-born citizens.
Sec. 23. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.	Sec. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.
	Sec. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

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OLD CONSTITUTION.

Sec. 24. This enumeration of rights shall not be construed to impair or deny others, retained by the people.

ARTICLE 2.—RIGHT OF SUFFRAGE.

Section 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote, twenty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

Sec. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

Sec. 4. No person in the military, naval or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

Sec. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

Sec. 6. All elections by the people shall be by ballot.

ARTICLE 3.—OF THE DISTRIBUTION OF POWERS.

Section 1. The powers of the government of Iowa shall be divided into three separate departments: The Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT.

Section 1. The legislative authority of this State shall be vested in a Senate and House of Representatives, which shall be designated the General Assembly of the State of Iowa; and the style of their laws shall commence in the following manner: "Be it enacted by the General Assembly of the State of Iowa."

Sec. 2. The sessions of the General Assembly shall be bienni l, and shall commence on the

NEW CONSTITUTION.

Sec. 25. This enumeration of rights shall not be construed to impair or deny others, retained by the people.

ARTICLE 2.—RIGHT OF SUFFRAGE.

Section 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State six months next preceding the election, and the county in which he claims his vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

Sec. 2. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

Sec. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war, or public danger.

Sec. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military, or naval place, or station within this State.

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ARTICLE 3.—OF THE DISTRIBUTION OF POWERS.

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LEGISLATIVE DEPARTMENT.

Section 1. The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives; and the style of every law shall be: "Be it enacted by the General Assembly of the State of Iowa."

Sec. 2. The sessions of the General Assembly shall be biennial, and shall commence on the

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OLD CONSTITUTION.

first Monday of December next ensuing the election of its members; unless the Governor of the State shall, in the interim, convene the General Assembly by proclamation.

Sec. 3. The members of the House of Representatives shall be chosen every second year, by the qualified electors of their respective districts, on the first Monday in August; whose term of office shall continue two years from the day of the general election.

Sec. 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years; be a free white male citizen of the United States, and have been an inhabitant of this State or Territory one year next preceding his election; and at the time of his election have an actual residence of thirty days in the county or district he may be chosen to represent.

Sec. 5. Senators shall be chosen for the term of four years, at the same time and place as Representatives; they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

Sec. 6. The number of Senators shall not be less than one third, nor more than one half the representative body; and at the first session of the General Assembly, after this constitution takes effect, the Senators shall be divided by lot, as equally as may be, into two classes; the seats of the Senators of the first class shall be vacated at the expiration of the second year, so that one half shall be chosen every two years.

Sec. 7. When the number of Senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as practicable.

Sec. 8. Each House shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

Sec. 9. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

Sec. 10. Each House shall sit upon its own

NEW CONSTITUTION.

second Monday in January next ensuing the election of its members; unless the Governor of the State shall, in the meantime, convene the General Assembly by proclamation.

Sec. 3. The members of the House of Representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the Presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

Sec. 4. No person shall be a member of the House of Rep esentatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and shall have been an inhabitant of this State one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

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Sec. 6. The number of senators shall not be less than one-third, nor more than one-half the representative body; and shall be so classified by lot, that one class, being as nearly one half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

Sec. 7. Each House shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

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OLD CONSTITUTION.

adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

Sec. 11. Every member of the General Assembly shall have the liberty to dissent from, or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either House, on any question, shall, at the desire of any two members present, be entered on the journals.

Sec. 12. Senators and Representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same.

Sec. 13. When vacancies occur in either House, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.

Sec. 14. The doors of each House shall be open, except on such occasion as, in the opinion of the House, may require secrecy.

Sec. 15. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 16. Bills may originate in either House, except bills for revenue, which shall always originate in the House of Representatives, and may be amended, altered, or rejected by the other; and every bill having passed both Houses, shall be signed by the Speaker and President of their respective Houses.

Sec. 17. Every bill which shall have passed the General Assembly, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it with his objections, to the House in which it originated, which shall enter the same upon the journal, and proceed to reconsider it: if, after such reconsideration, it again pass both Houses, by yeas and nays, by a majority of two thirds of the members of each House present, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have

NEW CONSTITUTION.

adjournment, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent state.

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OLD CONSTITUTION.	NEW CONSTITUTION.
been presented to him, (Sunday excepted), the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return.	sented to him (Sundays excepted), the same shall be a law in like manner, as if he had signed it, unless the General Assembly, by adjournment, shall prevent such return. Any bill submitted to the Governor for his approval during the last three days of a session of the General Assembly, shall be deposited by him in the office of the Secretary of State, within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.
	Sec. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.
Sec. 18. An accurate statement of the receipts and expenditures of the public money, shall be attached to and published with the laws, at every regular session of the General Assembly.	Sec. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every regular session of the General Assembly.
Sec. 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.	Sec. 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.
Sec. 20. The Governor, Secretary of State, Auditor, Treasurer, and Judges of the Supreme and District Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit, under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment, according to law. All other civil officers shall be tried for misdemeanors in office, in such manner as the General Assembly may provide.	Sec. 20. The Governor, Judges of the Supreme and District Courts, and other state officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment according to law. All other civil officers shall be tried for misdemeanor and malfeasance in office, in such manner as the General Assembly may provide.
Sec. 21. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.	Sec. 21. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.
Sec. 22 No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to the General Assembly: Provided, that offices in the militia,	Sec. 22. No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to hold a seat in the General Assembly; but offices in the

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OLD CONSTITUTION.

to which there is attached no annual salary, or the office of justice of the peace, or postmasters whose compensation d. es not exceed one hundred dollars per annum, shall not be deemed lucrative.

Sec. 23. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the General Assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

Sec. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Sec. 25. Each member of the General Assembly shall receive a compensation to be fixed by law, for his services, to be paid out of the treasury of the State. Such compensation shall not exceed two dollars per day, for the period of fifty days from the commencement of the session, and shall not exceed the sum of one dollar per day for the remainder of the session: when convened in extra session by the governor, they shall receive such sums as shall be fixed for the first fifty days of the ordinary session. They shall also receive two dollars for every twenty miles they travel, in going to and returning from their place of meeting, on the most usual route: Provided, however, That the members of the first General Assembly under this constitution shall receive two dollars per day for their services during the entire session.

Sec. 26. Every law shall embrace but one subject, which shall be expressed in the title.

Sec. 27. No law of the General Assembly, of a public nature, shall take effect until the same shall be published and circulated in the several counties of this State, by authority. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

Sec. 28. No divorce shall be granted by the General Assembly.

Sec. 29. No lottery shall be authorized by this State; nor shall the sale of lottery tickets be allowed.

(See section 26.)

NEW CONSTITUTION.

militia, to which there is attached no annual salary, or the office of justice of the peace, or postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

Sec. 23. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either House of the General Assembly, or be eligible to hold any office of trust or profit in this state, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

Sec. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Sec. 25. Each member of the first General Assembly under this Constitution, shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles traveled in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no General Assembly shall have power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

[See section 29.]

Sec. 26. No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the General Assembly by which they were passed. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

Sec. 27. No divorce shall be granted by the General Assembly.

Sec. 28. No lottery shall be authorized by this State; nor shall the sale of lottery tickets be allowed.

Sec. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the

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OLD CONSTITUTION.

Sec. 30. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the State of Iowa, and that I will faithfully discharge the duties of Senator, (or Representative, as the case may be,) according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the said oath or affirmation.

Sec. 31. Within one year after the ratification of this constitution, and within every subsequent term of two years, for the term of eight years, an enumeration of all the white inhabitants of this State shall be made, in such

NEW CONSTITUTION.

title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Sec. 30. The General Assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating roads, town plats, streets, alleys or public squares;

For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

Sec. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the services shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local, or private purposes, unless such appropriation, compensation, or claim, be allowed by two-thirds of the members elected to each branch of the General Assembly.

Sec. 32. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of Iowa, and that I will faithfully discharge the duties of Senator (or Representative, as the case may be) according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the said oath or affirmation.

Sec. 33. The General Assembly shall, in the years one thousand eight hundred and fifty-nine, one thousand eight hundred and sixty-three, one thousand eight hundred and sixty-five, one thousand eight hundred and sixty-seven, one

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OLD CONSTITUTION.

manner as shall be directed by law. The number of Senators and Representatives shall, at the first regular session of the General Assembly, after such enumeration, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each; and [the General Assembly] shall also, at every subsequent regular session, apportion the House of Representatives; and every other regular session the Senate, for eight years; and the House of Representatives shall never be less than twenty-six, nor greater than thirty-nine, until the number of white inhabitants shall be one hundred and seventy-five thousand; and after that event, at such ratio that the whole number of Representatives shall never be less than thirty-nine nor exceeding seventy-two.

Sec. 32. When a Congressional, Senatorial, or Representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a Congressional, Senatorial, or Representative district.

Sec. 33. In all elections by the General Assembly, the members thereof shall vote viva voce; and the votes shall be entered upon the journal.

Sec. 34. For the first ten years after the organization of the government, the annual salary of the Governor shall not exceed one thousand dollars; Secretary of State five hundred dollars; Treasurer, four hundred dollars; Auditor, six hundred dollars; Judges of the Supreme and District Courts, each one thousand dollars.

NEW CONSTITUTION.

thousand eight hundred and sixty-nine, and one thousand eight hundred and seventy-five, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the state.

Sec. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties, according to the number of white inhabitants in each.

Sec. 35. The Senate shall not consist of more than fifty members, nor the House of Representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the state, according to the number of white inhabitants in each, upon ratios to be fixed by law; but no representative district shall contain more than four organized counties, and each district shall be entitled to at least one representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law, shall be entitled to one representative; and any one county containing, in addition to the ratio fixed by law, one-half of that number, or more, shall be entitled to one additional representative. No floating district shall hereafter be formed.

Sec. 36. At its first session, under this constitution, and at every subsequent regular session, the General Assembly shall fix the ratio of representation, and also form into representative districts those counties which will be not entitled singly to a representative.

Sec. 37. When a Congressional, Senatorial, or Representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a Congressional, Senatorial, or Representative district.

Sec. 38. In all elections by the General Assembly, the members thereof shall vote viva voce; and the votes shall be entered on the journal.

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OLD CONSTITUTION.

ARTICLE 4.—EXECUTIVE DEPARTMENT.

Sec. 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of Iowa.

Sec. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office four years from the time of his installation, and until his successor shall be qualified.

Sec. 3. No person shall be eligible to the office of Governor, who has not been a citizen of the United States, and a resident of the State two years next preceding the election, and attained the age of thirty years, at the time of said election.

Sec. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session, open and publish them in presence of both houses of the General Assembly. The person having the highest number of votes shall be Governor; but in case any two or more have an equal and the highest number of votes, the General Assembly shall, by joint vote, choose one of said persons so having an equal and the highest number of votes, for Governor.

(See section 8.)

Sec. 5. The Governor shall be commander-

NEW CONSTITUTION,

ARTICLE 4.—EXECUTIVE DEPARTMENT.

Section 1. The supreme executive power of this state shall be vested in a Chief Magistrate, who shall be styled the Governor of the state of Iowa.

Sec. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

(See section 6.)

Sec. 3. There shall be a Lieutenant Governor, who shall hold his office two years, and be elected at the same time with the Governor. In voting for Governor and Lieutenont Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor, and Lieutenant Governor, shall be sealed up and transmitted to the seat of government of the state, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

Sec. 4. The persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of said persons Governor, or Lieutenant Governor, as the case may be.

Sec. 5. Contested elections for Governor or Lieutenant Governor, shall be determined by the General Assembly in such manner as may be prescribed by law.

Sec. 6. No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have been a citizen of the United States, and a resident of this State, for two years next preceding the election and attained the age of thirty years at the time of said election.

Sec. 7. The Governor shall be commander-

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OLD CONSTITUTION.	NEW CONSTITUTION.
in-chief of the militia, the army and navy of this State.	in-chief of the militia, the army and navy of this State.
Sec. 6. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.	Sec. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the Executive Department upon any subject relating to the duties of their respective offices.
Sec. 7. He shall see that the laws are faithfully executed.	Sec. 9. He shall take care that the laws are faithfully executed.
Sec. 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.	Sec. 10. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly, or at the next election by the people.
Sec. 9. He may, on extraordinary occasions, convene the General Assembly, by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.	Sec. 11. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.
Sec. 10. He shall communicate by message to the General Assembly at every session, the condition of the State, and recommend such matters as he shall deem expedient.	Sec. 12. He shall communicate, by message, to the General Assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.
Sec. 11. In case of disagreement between the two Houses, with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper, provided it be not beyond the time fixed for the meeting of the next General Assembly.	Sec. 13. In case of disagreement beween the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly.
Sec. 12. No person shall, while holding any other office under the United States, or this State, execute the office of Governor, except as hereinafter expressly provided.	Sec. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of Governor, or Lieutenant Governor, except as hereinafter expressly provided.
	Sec. 15. The official term of the Governor and Lieutenant Governor, shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The Lieutenant Governor, while acting as Governor, shall receive the same pay as provided for Governor; and while presiding in the Senate, shall receive as compensation therefor, the same mileage and double the per diem pay provided for a senator, and none other.
Sec. 13. The Governor shall have power to grant reprieves and pardons, and commute punishments after conviction, except in cases of impeachment.	Sec. 16. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offences except treason and cases of impeachment, subject to such regula-

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	tions as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted,
Sec. 14. The Governor shall, at stated times, receive for his services, a compensation which shall neither be increased nor diminished during the time for which he shall have been elected.	
Sec. 15. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.	(See section 20.)
Sec. 16. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the great seal of this State, signed by the Governor, and countersigned by the Secretary of State.	(See section 21.)
Sec. 17. A Secretary of State, Auditor of Public Accounts, and Treasurer, shall be elected by the qualified electors, who shall continue in office two years. The Secretary of State shall keep a fair register of all the official acts of the Governor, and shall, when required, lay the same, together with all the papers, minutes, and vouchers thereto, before either branch of the General Assembly, and shall perform such other duties as shall be assigned him by law.	(See section 22.)
Sec. 18. In case of the impeachment of the Governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Secretary of State, until such disability shall cease, or the vacancy be filled.	Sec. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.
	Sec. 18. The Lieutenant Governor shall be President of the Senate, but shall only vote when the Senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President pro tempore.
Sec. 19. If, during the vacancy of the office of Governor, the Secretary of State shall be impeached, displaced, resign, die, or be absent	Sec. 19. If the Lieutenant Governor, while acting as Governor, shall be impeached, displaced, resign or die, or otherwise become in-

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OLD CONSTITUTION.

from the State, the powers and duties of the office of Governor shall devolve upon the President of the Senate; and should a vacancy occur by impeachment, death, resignation, or absence from the State of the President of the Senate, the Speaker of the House of Representatives shall act as Governor till the vacancy be filled.

(See section 15.)

(See section 16.)

(See section 17.)

ARTICLE 5.—JUDICIAL DEPARTMENT.

Section 1. The judicial power shall be vested in a Supreme Court, District Courts, and such inferior courts as the General Assembly may from time to time establish.

Sec. 2. The Supreme Court shall consist of a Chief Justice, and two associates, two of whom shall be a quorum to hold court.

Sec. 3. The Judges of the Supreme Court shall be elected by joint vote of both branches of the General Assembly, and shall hold their courts at such time and place as the General Assembly may direct, and hold their offices for six years, and until their successors are elected and qualified, and shall be ineligible to any other office during the term for which they may be elected. The Supreme Court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of

NEW CONSTITUTION.

capable of performing the duties of the office, the President pro tempore of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

Sec. 20. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

Sec. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Sec. 22. A Secretary of State, Auditor of State, and Treasurer of State, shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

ARTICLE 5.—JUDICIAL DEPARTMENT.

Section 1. The judicial power shall be vested in a Supreme Court, District Courts, and such other Courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.

Sec. 2. The Supreme Court shall consist of three Judges, two of whom shall constitute a quorum to hold Court.

Sec. 3. The Judges of the Supreme Court shall be elected by the qualified electors of the State, and shall hold their Court at such time and place as the General Assembly may prescribe. The Judges of the Supreme Court so elected, shall be classified so that one Judge shall go out of office every two years; and the Judge holding the shortest term of office under such classification, shall be Chief Justice of the Court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each Judge of the Supreme Court shall be six years, and until his successor shall have been elected and qualified. The Judges of the Supreme Court shall be ineligible to any other office in the State, during the term for which they shall have been elected.

Sec. 4. The Supreme Court shall have ap-

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OLD CONSTITUTION.

errors at law, under such restrictions as the General Assembly may by law prescribe. The Supreme Court may have power to issue all writs and process necessary to do justice to parties, and exercise a supervisory control over all inferior judicial tribunals, and the judges of the Supreme Court shall be conservators of the peace throughout the State.

Sec. 4. The District Court shall consist of a judge, who shall be elected by the qualified voters of the district in which he resides, at the (township) election, and hold his office for the term of five years, and until his successor is elected and qualified, and shall be ineligible to any other office during the term for which he may be elected. The District Court shall be a court of law and equity, and have jurisdiction in all civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law. The Judges of the District Courts shall be conservators of the peace in their respective districts. The first session of the General Assembly shall divide the State into four districts, which may be increased as the exigencies require.

Sec. 5. The qualified voters of each county shall, at the general election, elect one prosecuting attorney, and one clerk of the District Court, who shall be residents therein, and who shall hold their several offices for the term of four years, and until their successors are elected and qualified.

Sec. 6. The style of all process shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

NEW CONSTITUTION.

pellate jurisdiction only in all cases in chancery, and shall constitute a Court for the correction of errors at law, under such restrictions as the General Assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

Sec. 5. The District Court shall consist of a single Judge, who shall be elected by the qualified electors of the District in which he resides. The Judge of the District Court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of Judge of the Supreme Court, during the term for which he was elected.

Sec. 6. The District Court shall be a Court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

ec. 7. The Judges of the Supreme and District Courts shall be conservators of the peace throughout the State.

(See section 13.)

Sec. 8. The style of all process sh all be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

Sec. 9. The salary of each Judge of the Supreme Court shall be two thousand dollars per annum; and that of each District Judge one thousand six hundred dollars per annum, until the year eighteen hundred and sixty; after which time, they shall severally receive such compensation as the General Assembly may, by law, prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

Sec. 10. The State shall be divided into eleven Judicial Districts; and after the year eighteen hundred and sixty, the General Assembly may re-organize the judicial districts, and increase or diminish the number of districts, or the number of Judges of the said Court and may increase the number of Judges of the

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(See section 5.)

ARTICLE 6.—MILITIA.

Section 1. The militia of this State shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained, as the General Assembly may provide by law.

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

Sec. 3. All commissioned officers of the militia, (staff officers excepted,) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

NEW CONSTITUTION.

Supreme Court; but such increase or diminution shall not be more than one district, or one Judge of either Court, at any one session; and no re-organization of the districts, or diminution of the number of Judges, shall have the effect of removing a Judge from office. Such re-organization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of the Judges, shall take place every four years thereafter, if necessary, and at no other time.

Sec. 11. The Judges of the Supreme and District Courts shall be chosen at the general election; and the term of office of each Judge shall commence on the first day of January next, after his election.

Sec. 12. The General Assembly shall provide, by law, for the election of an Attorney General by the people, whose term of office shall be two years, and until his successor shall have been elected and qualified.

Sec. 13. The qualified electors of each judicial district shall, at the time of the election of District Judge, elect a District Attorney, who shall be a resident of the district for which he is elected, and shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

Sec. 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the Courts of this State.

ARTICLE 6.—MILITIA.

Section 1. The militia of this State shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained, as the General Assembly may provide by law.

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: Provided, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

Sec. 3. All commissioned officers of the militia, (staff officers excepted), shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

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ARTICLE 7.—STATE DEBTS.

Section 1. The General Assembly shall not in any manner create any debt or debts, liability or liabilities, which shall singly, or in the aggregate, with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorized by some law for some single object or work to be distinctly specified therein; which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and the interest thereon shall be paid and discharged; but no such law shall take effect, until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election: and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

NEW CONSTITUTION.

ARTICLE 7.—STATE DEBTS.

Section 1. The credit of the state shall not, in any manner, be given or loaned to, or in aid of any individual, association, or corporation; and the state shall never assume, or become responsible for, the debts or liabilities of any individual, association or corporation, unless incurred in time of war for the benefit of the state.

Sec. 2. The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Sec. 3. All losses to the permanent School or University fund of this State, which shall have been occasioned by the defalcation, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund sustaining the loss, upon which not less than six per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

Sec. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Sec. 5. Except the debts hereinbefore specified in this article, no debt shall hereafter be contracted by, or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from

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ARTICLE 8.—INCORPORATIONS.

Sec. 1. No corporate body shall hereafter be created, renewed or extended, with the privilege of making, issuing, or putting in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money. The General Assembly of this state shall prohibit, by law, any person or persons, association, company, or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

Sec. 2. Corporations shall not be created in this state by special laws, except for political or municipal purposes; but the General Assembly shall provide by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law. The state shall not, directly or indirectly, become a stockholder in any corporation.

NEW CONSTITUTION.

the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

Sec. 6. The Legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may, at any time, forbid the contracting of any further debt, or liability under such law; but the tax imposed by such law, in proportion to the debt or liability, which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

Sec. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE 8.—CORPORATIONS.

Section 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Sec. 2. The property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals.

Sec. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

Sec. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

Sec. 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto shall take effect, nor in any manner be in force, until the same shall have been submit-

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OLD CONSTITUTION. NEW CONSTITUTION.

ted separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may also provide for the establishment of a State Bank with branches.

Sec. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each others' liabilities upon all notes, bills, and other issues intended for circulation as money.

Sec. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest-paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of ten per cent on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

Sec. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities, accruing while he or she remains such stockholder.

Sec. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

Sec. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

Sec. 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities,

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ARTICLE 9.—EDUCATION AND SCHOOL LANDS.

Sec. 1. The General Assembly shall provide for the election, by the people, of a Superintendent of Public Instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the General Assembly may direct.

NEW CONSTITUTION.

by a vote of two thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE 9.—EDUCATION AND SCHOOL LANDS.

1st.—Education.

Section 1. The educational interest of the State, including Common Schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

Sec. 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and shall have been one year a citizen of the State.

Sec. 3. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one half of the Board shall be chosen every two years thereafter.

Sec. 4. The first session of the Board of Education shall be held at the Seat of Government, on the first Monday of December, after their election; after which the General Assembly may fix the time and place of meeting.

Sec. 5. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two thirds of the Board, the Governor may order a special session.

Sec. 6. The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly.

Sec. 7. All rules and regulations made by the Board shall be published and distributed to the several counties, townships, and school dis-

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OLD CONSTITUTION.

(See section 3.)

NEW CONSTITUTION.

tricts, as may be provided for by the Board, and when so made, published, and distributed, they shall have the force and effect of law.

Sec. 8. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted to receive aid from the School or University fund of this State; but all acts, rules, and regulations of said Board may be altered, amended, or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Education.

Sec. 9. The Governor of the State shall be, *ex-officio*, a member of said Board.

Sec. 10. The Board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the General Assembly.

Sec. 11. The State University shall be established at one place, without branches at any other place, and the University fund shall be applied to that institution, and no other.

Sec. 12. The Board of Education shall provide for the education of all the youths of the State, through a system of common schools; and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund.

Sec. 13. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

Sec. 14. A majority of the Board shall constitute a quorum for the transaction of business but no rule, regulation or law, for the regulation and government of common schools or other educational institutions, shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Sec. 15. At any time after the year one thousand eight hundred and sixty-three, the General Assembly shall have power to abolish or re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

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Sec. 2. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved A. D. 1841, and all estates of deceased persons, who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

Sec. 3. The General Assembly shall provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its proportion of the interest of the public fund during such neglect.

Sec. 4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall, from time to time, to provide by law.

NEW CONSTITUTION.

2nd.—School Funds and School Lands.

Section 1. The educational and school funds and lands, shall be under the control and management of the General Assembly of this State.

Sec. 2. The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Sec. 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be, sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as has been, or may hereafter be, granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of Common Schools throughout the State.

{See section 12. *Education.*}

Sec. 4. The money which may have been, or shall be, paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall, from time to time, provide.

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Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this state, for the use of a university; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

ARTICLE 10.—AMENDMENTS TO THE CONSTITUTION.

NEW CONSTITUTION.

Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Sec. 6. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law.

Sec. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

ARTICLE 10.—AMENDMENTS TO THE CONSTITUTION.

Section 1. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people in such manner, and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amend-

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Sec. 1. If at any time the General Assembly shall think it necessary to revise or amend this constitution, they shall provide by law for a vote of the people for or against a convention, at the next ensuing election for members of the General Assembly. In case a majority of the people vote in favor of a convention, the said General Assembly shall provide for an election of delegates to a convention, to be held within six months after the vote of the people in favor thereof.

ARTICLE 11.—MISCELLANEOUS.

Sec. 1. The jurisdiction of Justices of the Peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise), where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding five hundred dollars.

Sec. 2. No new county shall be laid off hereafter, nor old county reduced to less contents than four hundred and thirty-two square miles.

NEW CONSTITUTION.

ment or amendments by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Sec. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the General Assembly may, by law, provide, the question: "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a Convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention.

ARTICLE 11.—MISCELLANEOUS.

Section 1. The jurisdiction of Justices of the Peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to any real estate may arise,) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

Sec. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area, except the county of Worth, and the counties west of it, along the northern boundary of this State, which may be organized without additional territory.

Sec. 3. No county, or other political or municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding five per centum on the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness.

Sec. 4. The boundaries of the State may be

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Sec. 3. The General Assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

ARTICLE 12.—SCHEDULE.

(See section 2.)

Sec. 1. That no inconvenience may arise from the change of a territorial government to a permanent state government, it is declared that all writs, actions, prosecutions, contracts, claims and rights, shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued, under the authority of the territory of Iowa, shall be as valid as if issued in the name of the state.

Sec. 2. All the laws now in force in this territory, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the General Assembly of this state.

NEW CONSTITUTION.

enlarged, with the consent of Congress and the General Assembly.

Sec. 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

Sec. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.

Sec. 7. The General Assembly shall not locate any of the public lands, which have been, or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

Sec. 8. The seat of Government is hereby permanently established, as now fixed by law, at the City of Des Moines, in the county of Polk, and the State University at Iowa City, in the county of Johnson.

ARTICLE 12.—SCHEDULE.

Section 1. This Constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The General Assembly shall pass all laws necessary to carry this Constitution into effect.

Sec. 2. All laws now in force, and not inconsistent with this Constitution, shall remain in force until they shall expire or be repealed.

Sec. 3. All indictments, prosecutions, suits, pleas, plaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari and injunctions, shall be carried on in the several courts, in the same manner as now provided by law; and all offenses, misdemeanors and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial and punishment, in the same manner as they would have been had not this constitution been made.

(See section 2.)

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OLD CONSTITUTION.

Sec. 3. All fines, penalties and forfeitures accruing to the territory of Iowa, shall accrue to the use of the state.

Sec. 4. All recognizances heretofore taken, or which may hereafter be taken, before the organization of the judicial department under this constitution, shall remain valid, and shall pass to and may be prosecuted in the name of the State. And all bonds executed to the Governor of this territory, or to any other officer in his official capacity, shall pass over to the governor of the state, or other proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen, or may arise, before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

Sec. 5. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of this territory, shall continue to hold and execute their respective offices and appointments until superseded under this constitution.

Sec. 6. The first general election under this constitution shall be held at such time as the governor of the territory, by proclamation may appoint, within three months after its adoption, for the election of a governor, two representatives in the Congress of the United States, (unless Congress shall provide for the election of one representative,) members of the general assembly, and one auditor, treasurer and secretary of state. Said election shall be conducted in accordance with the existing laws of this territory: and said governor, representatives in the Congress of the United States, auditor, treasurer, and secretary of state, duly elected at said election, shall continue to discharge the duties of their respective offices for the time prescribed by this constitution and until their successors are elected and qualified. The returns of said election shall be made in conformity to the existing laws of this territory.

NEW CONSTITUTION.

Sec. 4. All fines, penalties, or forfeitures due, or to become due, or accruing to the State, or to any county therein, or to the school fund, shall inure to the State, county, or school fund, in the manner prescribed by law.

Sec. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

Sec. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the Governor and Lieutenant Governor. There shall also be elected at such election, the successors of such State Senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the House of Representatives, who shall be elected in accordance with the act of apportionment, enacted at the session of the General Assembly which commenced on the first Monday of December, eighteen hundred and fifty-six.

Sec. 7. The first election for Secretary, Auditor, and Treasurer of State, Attorney General, District Judges, Members of the Board of Education, District Attorneys, members of Con-

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OLD CONSTITUTION.

Sec. 7. Until the first enumeration of the inhabitants of this state, as directed by this constitution, the following shall be the apportionment of the General Assembly:

The county of Jefferson, one Senator and three Representatives.

The county of Lee shall be entitled to two Senators and five Representatives;

The county of Van Buren, two Senators and four Representatives;

The counties of Davis and Appanoose, one Senator and one Representative, jointly;

The counties of Wapello and Monroe, one Senator jointly, and one Representative each;

The counties of Marion, Polk, Dallas and Jasper, one Senator and two Representatives, jointly;

The county of Des Moines, two Senators and four Representatives;

The county of Henry, one Senator and three Representatives;

The counties of Louisa and Washington, one Senator jointly, and one Representative each;

The counties of Keokuk and Mahaska, one senator jointly and one Representative each;

The counties of Muscatine, Johnson and Iowa, one Senator and one Representative jointly, and

NEW CONSTITUTION.

gress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, (except the Superintendent of Public Instruction,) and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except Prosecuting Attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight; Provided, that the time for which any District Judge or any other State or county officer elected at the April election in eighteen hundred and fifty-eight, shall not extend beyond the time fixed for filling like offices at the October election in the year one thousand eight hundred and fifty-eight.

Sec. 8. The first election for Judges of the Supreme Court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

Sec. 9. The first regular session of the General Assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

Sec. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

Sec. 11. Every person elected by popular vote, by a vote of the General Assembly, or who may hold office by Executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed, to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided), shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office after the taking effect of this constitution, for a longer period than the term of such office, in this constitution prescribed.

Sec. 12. The General Assembly, at the first session under this constitution, shall district the state into eleven judicial districts, for District Court purposes; and shall also provide for the

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Muscatine one Representative, and Johnson and Iowa one Representative jointly ;

The counties of Scott and Clinton, one Senator jointly, and one Representative each ;

The counties of Cedar, Linn and Benton, one Senator jointly ; the county of Cedar, one Representative, and the counties of Linn and Benton, one Representative jointly ;

The counties of Jackson and Jones, one Senator and two Representatives ;

The counties of Dubuque, Delawere, Clayton, Fayette, Buchanan, and Blackhawk, two Senators and two Representatives jointly ;

And any county attached to any county for judicial purposes, shall, unless otherwise provided for, be considered as forming part of such county for election purposes.

Sec. 8. The first meeting of the General Assembly under this Constitution shall be at such times as the Governor of the territory may by proclamation appoint, within four months after its ratification by the people, in Iowa City, in Johnson county, which place shall be the seat of government of the State of Iowa, until removed by law.

NEW CONSTITUTION.

apportionment of the members of the General Assembly, in accordance with the provisions of this constitution.

Sec. 13. The foregoing constitution shall be submitted to the electors of the state at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution—"New Constitution—Yes." Those against the constitution, "New Constitution—No." The election shall be conducted in the same manner as the general elections of the state, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the Code; and abstracts shall be forwarded to the Secretary of State, which abstracts shall be canvassed in the manner provided for the canvass of state officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the Governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

Sec. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "Right of Suffrage," shall be separately submitted to the electors of this state for adoption or rejection, in manner following:

A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box; and those given for the adoption of such proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?'. Yes" And those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' No." And if at said election the number of ballots cast in favor of said proposition, shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article and be no part thereof.

Sec. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the Sixth Judicial District of this state.

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OLD CONSTITUTION.

Done in convention at Iowa City, this eighteenth day of May, in the year of our Lord one thousand eight hundred and forty-six, and of the Independence of the United States of America, the seventieth.

In testimony whereof, we have hereunto subscribed our names:

ENOS LOWE, President.

Thomas Dibble,	Joseph H. Hedrick,
Erastus Hoskin,	Sylvester G. Matson.
David Galland,	S. B. Shelledy,
Sulifand S. Ross,	James Grant,
Shepherd Leffler,	George Hobson,
Curtis Bates,	Wm. G. Coop,
John Ronalds,	Samuel A. Bissell,
Socrates H. Tryon,	Wareham G Clark,
William Hubbell,	John J. Selman,
George Berry,	John Conrey,
Josiah Kent,	H. P. Haun,
Stewart Goodrell,	Sanford Harned,
David Olmstead,	G. W. Bowie,
Alvin Saunders,	William Steele,
T. McCraney,	F. K. O'Ferrall,
J. Scott Richman.	

Attest, WM. THOMPSON, Secretary.

NEW CONSTITUTION.

Done in Convention, at Iowa City, this fifth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America, the eighty-first.

In testimony whereof we have hereunto subour names.

Timothy Day,	M. W. Robinson,
S. G. Winchester,	Lewis Todhunter,
David Bunker,	John Edwards,
D. P. Palmer,	J. C Traer,
Geo. W. Ells,	James F. Wilson,
J. C. Hall,	Amos Harris,
John H. Peters,	John T. Clark,
Wm. H. Warren,	S. Ayres,
H. W. Gray,	Harvey J. Skiff.
Robert Gower,	J. A. Parvin,
H. D. Gibson,	W. Penn. Clarke,
Thomas Seely,	Jer. Hollingworth,
A. H. Marvin,	Wm. Patterson,
J. H. Emerson,	D. W. Price,
R. L. B. Clarke,	Alpheus Scott,
James A. Young,	George Gillaspy,
D. H. Solomon,	Edward Johnston.

FRANCIS SPRINGER, President.

Attest,

T. J. SAUNDERS, Sec'y.

E. N. BATES, Ass't Sec'y.

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INDEX.

A.

Accounts and expenditures; appointment of committee upon 741, 743
Accounts and expenditures; addition of two members to committee upon 958
remarks of—
Mr. Clark of Alamakee, 959, 962
Clarke of Johnson, 958, 959, 961, 962
Gibson, 958, 959, 960, 961
Gillaspy, 959
Price, 959
Scott, 959
Young, 958
Accounts and expenditures; reports from committee upon, 758, 1025, 1026
Accusations; accused to be furnished with a copy of, 64, 99, 119, 201
Acquittal; persons not to be tried a second time for the same offence after, 99, 125, 201
Acts of the Legislature of 1855 and '56 to be furnished to members, 10
Adjournment of General Assembly by the Governor, 77, 585
Adjournment over till May, 496
remarks of—
Mr. Edwards, 497
Gillaspy, 498, 499
Hall, 499
Harris, 500
Marvin, 499
Peters, 496
Wilson, 498, 499
Adjournment *sine die*, 360, 478, 502, 1012, 1065
remarks of—
Mr. Clarke of Henry, 502, 504
Harris, 503
Palmer, 503
Peters, 503
Scott, 502
Solomon, 502
Traer, 502
Young, 503
Administrators; resolution of enquiry in relation to the sale of real estate by, 48
Age of the Governor, 77, 580
remarks of—
Mr. Clark of Alamakee, 582
Clarke of Henry; 581
Gillaspy, 581, 582
Marvin, 581
Palmer, 580, 582
Parvin, 582
Skiff, 580
Scott, 580, 581
Solomon, 580
Age of Lieutenant Governor, 77, 580
remarks of—
Mr. Clark of Alamakee, 582
Clarke of Henry, 581
Gillaspy, 581, 582
Marvin, 581
Palmer, 580, 582
Parvin, 582
Scott, 580, 581
Skiff, 580
Solomon, 580
Age of members of the Board of Education, 78, 768, 816, 937,
remarks of—
Mr. Clarke of Johnson, 938
Hall, 937
Skiff, 768

Digitized by Google

PAGE.

Solomon, 768
Traer, 937
Age of members of the House of Representatives, 83, 515
Age of officers of the state, 47
Age of persons to serve in the militia, 628, 640
remarks of—
Mr. Johnston, 641
Skiff, 641
Traer, 641
Age of scholars in common schools, 79
Age of Senators, 30, 83, 516, 517
remarks of—
Mr. Gillaspy, 516
Age of voters, 36, 860
Agents of the school fund, 78, 772
Alleys; provision in relation to vacating, 48, 84, 531
Allowing railroad employees to vote, 813
Allowing Students to vote, 665, 869
remarks of—
Mr. Gower, 665, 869
Marvin, 665
Amendments to the constitution, committee upon; resolution in relation to the appointment of, 1019
report upon the appointment of, 21
appointment of, 22
resolutions of inquiry referred to, 33, 34
report from, 36
minority report from, 80
consideration of the report from, 602
remarks of—
Mr. Bunker, 605
Clark of Alamakee, 607, 608, 609, 610, 640
Clarke of Henry, 612, 616, 618, 620 626, 640, 1031, 1032
Clarke of Johnson, 603, 616, 617, 618 620, 621, 639, 640
Gibson, 603, 612, 615, 618, 623, 626, 1032
Gillaspy, 604, 607, 608, 609
Gower, 615
Hall, 615, 616, 617, 621, 622, 623, 624, 625, 1031, 1032
Harris, 604, 606, 613, 614, 1031, 1032
Marvin, 619, 620, 1031
Palmer, 611, 626, 639, 640
Parvin, 622
Scott, 606
Solomon, 611, 1031
Traer, 604, 607, 624, 625, 939
Wilson, 610, 616, 619, 620, 621, 622, 623 625, 626, 1031, 1032
Winchester, 603, 604
third reading of the report from, 1030
yeas and nays upon final passage of the report from, 1033
Amendment of the rules, 26, 34, 37, 48, 64, 87, 118
remarks of—
Mr. Clarke of Henry, 48
Hall, 49
Traer, 49
Wilson, 49
Annual sessions of the general assembly, 30
Appeals—resolution in relation to court of, 64
Appointment of assistant secretary *pro tem*, 5
Appointment of door-keeper *pro tem*, 5
Appointment of fireman *pro tem*, 5
Appointment of messengers *pro tem*, 5
Appointment of reporter, 11
Appointment of secretary *pro tem*, 5
Appointment of sergeant-at-arms *pro tem*, 5
Appointment of committee on credentials, 5
Appointment of committee to conduct President elect to the chair, 6
Appointment of committee on reporting and publishing the debates, 11
Appointment of standing committees of the convention, 10, 19, 21, 22
remarks of—
Mr. Johnston, 19
Wilson, 19
Appointment of the special committee upon the basis of representation, 62, 74
remarks of—
Mr. Clarke of Henry, 63
Hall, 62
Harris, 62, 63
Johnston, 62
Parvin, 63
Solomon, 63
Traer, 63
Appointment of the special committee upon the bill of rights, 223
remarks of—
Mr. Bunker, 223, 225
Clarke of Henry, 223, 224
Hall, 223, 224, 225
Harris, 224
Johnston, 223, 226
Marvin, 226

Digitized by Google

PAGE

Parvin, 224
Patterson, 225
Todhunter, 223
Wilson, 224
Appointment of special committee upon incorporations—
remarks of—
Mr. Clarke of Henry, 429
Parvin, 785
Winchester, 785
Appointment of special committee upon the right of suffrage—
remarks of—
Mr. Clarke of Henry, 218
Edwards, 218
Gillaspy, 218
Hall, 218
Harris, 218
Palmer, 218
Warren, 218
Apportionment of representation, 10, 84, 540, 1011, 1013
remarks of—
Mr. Clarke of Henry, 1015, 1016
Clarke of Johnson, 1013, 1014, 1015
Marvin, 1016
Skiff, 1011
Traer, 540, 1014, 1015
Wilson, 1015
Apportiontment of senators, 84, 540, 552, 1011
remarks of—
Mr. Clarke of Henry, 1011
Wilson, 1011, 1012
Apportionment under the new constitution by first general assembly—
remarks of—
Mr. Wilson, 998
Winchester, 998
Appropriations from the treasury, to be in pursuance of laws, 84, 528
Approval of bills by the governor, 35, 77, 83, 525, 589, 596, 1012
Army, governor to be commander-in-chief of, 77, 583
Army, in time of peace, no standing, 99, 126, 202
Army, in time of war, appropriations not to extend beyond two years for, 99, 126, 202
Articles of the constitution referred to their appropriate committees, 23
Assembling of the convention, on first day of the session, 5
Assessment of taxes, 48, 84, 531

PAGE

Assistant secretary, E. N. Bates, appointed *pro tem*, 5
Assistant secretary, E. N. Bates, elected, 7
Assistant secretary, J. C. Burns, nominated for, 7
Assistant secretary, rate of per diem of, 759, 1025
Assistant secretary, amount per diem of, 1050
Assumption of the school fund by the State, 47, 772
Attainder, legislature to pass no bill of, 100, 129, 208
Attorney General, term of office of, 77, 588
Attorney General, liable to impeachment, 83
Attorney General, election of, 116, 478
Attorney General, salary of, 550, 554
Attorney General, first election of under new constitution, 914, 996
Attorneys, district prosecuting, 38, 260, 456, 475
Auditor of State, term of office of, 77, 588
Auditor of State, liable to impeachment, 83, 527, 551
Auditor of State, salary of, 84, 550, 555, 578
Auditor of State, first election under new constitution of, 914, 996

AYERS, SQUIRE.

appointed upon the standing committee upon the executive department, 21
appointed upon the standing committee upon state debts, 22
credentials of, 6
mileage of, 1025
nominated J. Page for door-keeper, 7
offered resolutions of inquiry upon city and county indebtedness, 47
remarks upon—
city and county indebtedness, 291, 292, 297
removal of convention from Iowa City, 61
resolution of inquiry, 32

B

Bail, excessive bail not to be required, 99 126, 202
Bail, to be received before conviction, except for capital offenses, 99, 125
Ballot, elections to be by, 36, 869
Bank bills, issued by other than banks, 97, 403, 420

Digitized by Google

PAGE.

Bank bills, to be registered and countersigned, 96, 344, 775

Banking corporations, under general laws, 96, 344, 362, 419, 775

remarks of—

Mr. Clarke of Henry, 347, 350, 353, 358, 359, 779
Clarke of Johnson, 346, 791, 792
Edwards, 344, 346, 351, 789
Ells, 347, 348
Emerson, 356
Gibson, 354
Gillaspy, 350, 363, 794
Gower, 363
Hall, 346, 348, 350, 352, 353, 357, 359, 774
Harris, 775
Johnston, 347
Parvin, 347, 354
Peters, 357
Skiff, 346
Solomon, 349, 791
Wilson, 355, 358, 775, 789

Bank, State and branches, 96, 344

remarks of—

Mr. Clarke of Henry, 387, 389
Clarke of Johnson, 373, 859
Edwards, 380
Ells, 381, 382, 384, 389
Gibson, 374
Gower, 373, 374, 377
Hall, 373, 374, 386, 389
Harris, 375, 383, 389
Parvin, 373, 385
Scott, 390
Solomon, 390
Traer, 373
Wilson, 384, 385, 785, 859
Young, 382

Banks; liabilities of stockholders in, 95, 363, 419, 785

remarks of—

Mr. Clark of Alamakee, 370, 371, 786
Clarke of Henry, 364, 368, 370, 789
Clarke of Johnson, 363, 364, 366, 789
Emerson, 786
Marvin, 788
Palmer, 372, 786, 787
Parvin, 785, 788
Scott, 785
Traer 787, 788, 789
Wilson, 363, 370

Banking laws; repeal of, 97, 405, 649

remarks of—

Mr. Clarke of Henry, 404, 406, 773, 774
Clarke of Johnson, 404, 773
Day, 406
Johnston, 406
Palmer, 404
Skiff, 404
Wilson, 404, 405, 406

Banking laws; submission to the people of, 97, 405, 420, 649, 773

remarks of—

Mr. Clark of Alamakee, 773
Parvin, 773

Banks; suspension of specie payment by, 97, 403, 427

remarks of—

Mr. Palmer, 403
Traer, 403

Banks; transfer of stock in, 96, 344

Banks; depreciation of stock in, 347

Banks; preferred creditors of, 97, 396, 790

remarks of—

Mr. Clark of Alamakee, 397, 400, 791
Clarke of Henry, 401
Ells, 397
Gillaspy, 402
Hall, 396, 397, 401, 790
Harris, 398
Marvin, 398, 402, 790
Parvin, 790
Skiff, 396, 397, 399
Solomon, 403
Traer, 398, 399, 400
Young, 399

Basis of representation; appointment of special committee upon, 62, 74

remarks of—

Mr. Clarke of Henry, 63
Hall, 62
Harris, 62, 63
Johnston, 62
Parvin, 63
Solomon, 63
Traer, 63

Basis of representation; provision in relation to, 275, 543, 554, 577, 579

remarks of—

Mr. Clarke of Henry, 554, 555
Hall, 546,
Harris, 545, 554, 578
Marvin, 548
Parvin, 544, 546, 554
Solomon, 546, 549, 577, 578, 579
Traer, 543, 554, 578,

Digitized by Google

PAGE.

Bates, Ellsworth, N.; appointed assistant secretary *pro tem*, 5
elected permanent secretary, 7
rate of *per diem* of, 759, 1025
Amount of *per diem*, 1050
Biennial sessions of the general assembly, 8 2, 510, 538
remarks of—
Mr. Clarke of Henry, 513, 560, 562, 563
Clarke of Johnson, 561
Edwards, 511
Gibson, 511, 561
Gillaspy, 566
Gower, 510, 566
Hall, 510, 512, 559
Harris, 511, 513, 564
Marvin, 512, 566
Palmer, 510, 511
Parvin, 510, 559
Traer, 560
Wilson, 563
Winchester, 562
Bill holders to be preferred creditors of banks, 97, 396, 790
remarks of—
Mr. Clark of Alamakee, 397, 400, 791
Clarke of Henry, 401
Ells, 397
Gillaspy, 402
Hall 396, 397, 401, 790
Harris, 398
Marvin, 398, 402, 790
Parvin, 790
Skiff, 396, 397, 399
Solomon, 408
Traer, 398, 399, 400
Wilson, 396, 399, 400
Young, 399
Bill of rights; appointment of standing committee upon, 10, 19, 21
Bill of rights; appointment of special committee upon, 223
remarks of—
Mr. Bunker, 223, 225
Clarke of Henry, 223, 224
Hall, 223, 224, 225
Harris, 224
Johnston, 223, 226
Marvin, 226
Parvin, 224
Patterson, 225
Todhunter, 223
Wilson, 224

PAGE

Bill of rights; petitions and resolutions of enquiry referred to committee upon, 21, 39, 80, 115, 396
report from special committee upon, 652
report from standing committee upon 64
remarks of—
Mr. Clarke of Johnson, 103
Ells, 100
Bill of rights; third reading of article upon, 1006
yeas and nays upon final passage of article upon, 1008
Bills of the legislature; to be approved by the governor, 35, 77, 83, 525, 589, 596, 1012
may originate in either house of the general assembly, 83, 525
may be amended, altered, or rejected by either house, 83, 525
to be passed by a majority of all elected to each house, 83, 527
to be signed by the Speaker of the House and President of the Senate, 83, 525
Bittman, John; employed to translate and print the constitution in German, 973, 975
compensation of, 1051
Board of education; establishment of, 39, 78 720, 743, 766, 815, 871, 934
remarks of—
Mr. Clarke of Johnson, 723, 732, 744
Edwards, 943
Ells, 602, 728
Gower, 731, 757, 950
Hall, 600, 721, 723, 725, 730, 750, 754, 837, 942, 946
Harris, 937, 944
Johnston, 724, 725, 766
Marvin, 600, 756, 949, 950
Palmer, 723, 747, 750
Scott, 944, 949
Skiff, 731, 755
Solomon, 722, 725, 767
Todhunter, 769
Wilson, 722, 723, 724, 748, 935, 941
Board of education; age of Members of, 78 768, 816, 937,
remarks of—
Mr. Clarke of Johnson, 938
Hall, 937
Skiff, 768
Solomon, 768
Traer, 937
Board of education; provision in relation to a chancellor of, 78, 770, 887
compensation of members of, 79, 772, 825

Digitized by Google

PAGE.

remarks of—

Mr. Clarke of Henry, 955
Clarke of Johnson, 953, 957
Hall, 956, 962, 964
Marvin, 964
Parvin, 962
Scott, 955
Skiff, 957
Wilson, 953, 963

Board of education; extra sessions of, 78, 768 816, 938
first session of, 78, 768, 816, 938
Governor to be a member of, 838, 845, 939 951
length of sessions of, 78, 768, 816, 225, 938
manner of electing, 78, 768
organization of, 78, 768, 816, 938
number of members of, 78, 767, 815

remarks of—

Mr. Hall, 767
Skiff, 767, 768
Solomon, 767, 768

Board of education; officers of 78, 769, 816, 938
power and authority of, 78, 770, 842, 939

remarks of—

Mr. Clarke of Henry, 843, 939, 947
Clarke of Johnson, 944
Edwards, 943
Parvin, 942
Scott, 944, 949

Board of education; rules and regulations of 78, 770, 838, 938

Board of Education; terms and classification of members of, 78, 768, 816, 931
time and place of meeting of, 78, 768, 938

Bonds previously executed to continue in force under the new constitution, 914, 995

Boundaries of the state, 99, 141, 648, 800

remarks of—

Mr. Edwards, 141, 142
Gower, 141, 143
Hall, 141, 142
Harris, 148
Palmer, 141, 142
Wilson, 142

Bradley, Philip B., nominated for permanent secretary, 7

Branches of the state bank, to be mutually responsible for each others' issues, 97, 341 419

Burns, J. C., nominated for assistant secretary, 7

PAGE

BUNKER, DAVID,

appointed upon committee to draft rules for the convention, 10
appointed upon standing committee upon amendments to the constitution, 22
appointed upon standing committee upon miscellaneous subjects, 22
appointed upon select committee upon incorporations, 430
appointed chairman of the committee of the whole upon the report of the committee on incorporations, 629
mileage of, 1025
offered amendment to bill of rights, in relation to natural rights of man, 215
offered resolution of inquiry in relation to establishment of State Bank and branches, 38
made report from committee on miscellaneous subjects, 648
report upon credentials of, 6

remarks upon—

appointment of select committee on bill of rights, 223, 225
city and county indebtedness, 309
competency of witnesses, 199
distribution of debates, 917
districting state for judicial purposes, 876
furnishing members of convention with slips of debates, 29
jurisdiction of justices of the peace, 797
Lee county; division of, 1000
limitation of state indebtedness, 271
location of state capitol and university, 934
natural rights of man, 103, 733
number of judges of supreme court, 464
order of business, 223, 288, 881
personal and general explanation, 1064
political parties, their course in regard to slavery, 909
printing journal of the convention, 978, 979
printing reports of select committee upon the bill of rights, 655
religious tests and competency of witnesses, 199
removal of convention from Iowa City, 14
repeal of corporations, 165
report of committee on distribution of powers, 37
report of committee upon future amendments to the constitution, 605

Digitized by Google

PAGE.

resolution for adjournment *sine die* on fouth of March, 502, 503
resolution to furnish members with daily newspapers, 74
resolution of inquiry in relation to judicial department, 66
resolution in relation to oath to be taken by members of the convention, 9
size of counties, 800
striking word "white" from the constitution, 908, 909
Business of the convention, manner of conducting, 10, 37, 48, 64, 95

remarks of—

Mr. Clarke of Henry, 38
Edwards, 38
Johnston, 38
Patterson, 38
Traer, 37
Wilson, 38
Business pending in the courts to continue under the new constitution, 914, 994

C

Calls of the convention, 421, 478, 508, 559, 654 686, 698, 733, 870, 887, 933
Capital offenses not bailable, 99, 125
Capital of the state; provision in relation to the permanent location of, 88, 877, 922 1017

remarks of—

Mr. Bunker, 934
Clark of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 926
Edwards, 877, 930
Gibson, 971, 840
Gillaspy, 877
Gower, 922, 125
Hall, 877, 931
Harris, 926
Palmer, 877, 933
Skiff, 839
Traer, 1017
Capitol Reporter; Mr. Edwards moved to subscribe for each member of the convention five copies of, 23
Census of the state; provisions in relation to taking the, 30, 84, 540, 1011
Chairman to be appointed by the President, 20

PAGE

Chairmen of the committee of the whole—
Mr. Bunker, 329
Clark of Alamakee, 888
Edwards, 98
Gibson, 579
Gillaspy, 664
Gray, 260
Harris, 430
Johnston, 227
Parvin, 598
Todhunter, 795
Traer, 289
Winchester, 860
Young, 606
Chancellor of Board of Education, 78, 770, 837
Chaplain of the convention; the President authorized to appoint, 22
Rev. Alpheus Kynett appointed, 24
compensation of, 760

Remarks of—

Mr. Clarke of Johnson, 760, 761
Hall, 760, 761
Solomon, 760
Todhunter, 760, 761
Charitable institutions, resolution in relation to appointment of committee upon, 96, 118
City and county indebtedness; resolutions of inquiry in relation to, 34, 47, 94
report of committee upon state debts upon resolution in relation to, 50
provision in relation to, 96, 290, 329, 415 421, 776, 805, 812

remarks of—

Mr. Ayres, 291, 292, 297
Bunker, 306
Clark of Alamakee, 51, 318, 324, 418, 421 423, 425, 426, 427 777, 808
Clarke of Henry, 52, 301, 325, 343, 344 418, 805, 806
Clarke of Johnson, 50, 51, 52, 304, 305 309, 336, 344, 415 417, 418, 421, 424 425, 426, 427, 776 805
Edwards, 293, 295, 300, 301, 304, 306, 316 330, 335, 421, 422, 423, 425, 776 806, 812
Ells, 322
Emerson, 51, 297, 315, 316, 317, 318, 812
Gibson, 424, 810
Gillaspy, 294, 307, 328, 416 421, 777, 778, 805

Digitized by Google

PAGE.

City and county indebtedness; provision in relation to—

remarks of—

Mr. Gower, 290, 294
Gray, 295
Hall, 51, 52, 292, 295, 299, 302, 303 305, 307, 313, 314, 324, 327 328, 332, 343, 421, 426, 806
Harris, 291, 301, 306, 313, 329, 425
Johnston, 51, 291, 302, 342, 343, 426, 776
Marvin, 290, 297, 312, 423
Palmer, 298
Parvin, 305, 307, 314, 425
Patterson, 297
Peters, 317, 318, 417, 805
Price, 335
Scott, 313, 422
Skiff, 290, 311, 415, 425, 427, 808
Solomon, 311, 776, 778
Traer, 421, 775, 776, 777
Warren, 51
Wilson, 309, 327, 328, 416, 422
Young, 421

Cities; the legislature to pass no special laws for the incorporation of, 84, 531

Citizens' Library Association of Iowa City; invitation to members of the convention to visit reading-room of, 461

Civil and criminal cases; resolution of inquiry in relation to change of venue of, 48

CLARK, JOHN T.

appointed upon standing committee upon the bill of rights, 21

appointed upon standing committee upon future amendments to the constitution, 22

appointed upon special committee to ascertain the cause of the delay of the printing of the debates, 496

appointed upon special committee on the school fund, 781

appointed chairman of the committee of the whole upon the resolution to submit to the people the question of striking the word "white" from the constitution, 888

credentials of, 6

mileage of, 1025

moved appointment of a committee to report upon the number and character of the standing committees of the convention, 19

moved to amend resolution to furnish members with twenty-five daily newspapers, by reducing the number to ten, 23

offered resolution to admit editors and reporters of state papers to the floor of the convention, 23

offered resolution of inquiry concerning general banking, 39

offered resolution of inquiry in relation to the article upon the judicial department, 64

offered resolution concerning the *per diem* of members of the convention, 990

offered resolution that members of the convention return to the Secretary of State the documents that had been furnished to them, 990

personal explanation, 557

remarks upon—

age of Governor and Lieutenant Governor, 582

city and county indebtedness, 51, 318, 324 418, 421, 423, 425, 426, 427, 777, 808

competency of witnesses and religious tests, 191

delay in the publication of the debates, 494, 495, 496

distribution of the debates, 765, 920 1004, 1005

filling temporary vacancies in district courts, 459

furnishing members with slips of debates, 29, 69, 70, 72

furnishing members with fifteen additional daily newspapers, 74, 75, 76

furnishing members with reports of the Supreme Court, 91, 94

giving each editor in the state a copy of the debates, 1027, 1028

Greene's Reports of the Supreme Court; purchase of 1052, 1053

guaranteeing to school and university fund all losses occasioned by fraud or mismanagement of state officers, 278

holding night sessions of the convention, 813

judicial districts; number of, 629, 630

jurisdiction of justices of the peace, 795, 796

length of school in each school district, 818, 821, 823

liability of stockholders in banks, 370, 371 786

Lieutenant Governor, 594

limitation of debate, 501

location of county seats and boundaries, 533, 536, 537, 552, 555

Digitized by Google

PAGE.

location of public lands by the state, 811
location of state capitol and university, 928
manner of conducting criminal prosecutions, 120, 122, 787
mileage of members of the convention, 986, 987, 988, 989
natural rights of man, 104
night sessions of the convention, 813
number of copies of debates to be published, 56
number of courts, 238, 436, 441, 442, 471
number of judges of supreme court, 463
number of judicial districts, 629, 630
oath to be taken by members of the convention, 8
offering of resolutions of inquiry, 33, 87
office of Lieutenant Governor, 594
order of business, 720, 878, 879, 882, 883
personal explanation, 557
political parties upon the question of slavery, 709
postage of the convention, 1050
preferred creditors of banks, 397, 400, 791
printing reports of special committee on the right of suffrage, 663
printing journal and constitution, 973, 974 981
private property taken for roads, 126, 127 128
private property taken for public uses, 217 413
prohibition of articles of manufacture and sale, 139
public lands located by the state, 811
publication of the debates, 28, 44, 56
punishment of frauds in banking, 394
purchasing Greene's Reports of the Supreme Court, 1052, 1053
reference of resolution of inquiry in relation to the judicial department, 65, 81
reference of resolution of inquiry in relation to the bill of rights, 80
religious tests and competency of witnesses, 191
removal of convention from Iowa City, 17
re-organization of judicial districts and courts, 460, 635, 636, 637
repeal of corporations, 106, 107, 111, 113 114, 156, 411
report of the committee on the distribution of powers, 37
report of the committee on amendments to the constitution, 607, 608, 609, 610, 640

PAGE

residence of voters, 860, 862
residence of members of the General Assembly, 569, 573
resolution instructing committees to report by a certain day, 627
resolution to add two members to the committee on accounts and expenditures, 959 962
salaries of judges, 480, 489
schools in districts, 818, 821, 822
standing committees of the convention, 19
State boundaries, 142
stockholders in banks, 370, 371, 786
striking the word "white" from the constitution, 709
submission of banking laws to the people, 773
suppression of debate upon removal of convention from Iowa City, 35
supreme judges; number of, 463
temporary court for trial of judges and state officers, 457
term of office of district judges, 474
trial by jury, 119
voters; residence of, 860, 862
"white"; striking from the constitution of word, 709

CLARKE, R. L. B.

appointed upon committee on credentials, 5
appointed upon committee in relation to the employment of a reporter, 11
appointed upon committee to report the number and character of the standing committees of the convention, 20
appointed upon standing committee on the judicial department, 22
appointed upon standing committee upon incorporations, 22
appointed upon special committee upon the bill of rights, 226
appointed upon special committee on the right of suffrage, 219
appointed upon special committee in relation to the proper disposition of the school fund, 781
credentials of, 6
dissented from majority report of committee on the judicial department, 116
gave notice of amendment of the rules, 34
made report from committee on credentials, 6

Digitized by Google

PAGE.

CLARKE, R. L. B.

made report from committee upon the subject of reporting the debates of the convention, 28

made report from the committee upon the number and character of the standing committees of the convention, 21

made report from committee on incorporations, 96

made report from the committee on incorporations, upon resolution of inquiry, 215

made report from the committee on the judicial department, 259

made report from special committee on the bill of rights, 651

made report from special committee on the right of suffrage, 649

mileage of, 1025

moved amendment in relation to the rights of persons not citizens, other than foreigners, 129

offered a provision in relation to common law in this state, 213

offered a resolution in relation to the appointment of a reporter, 10

offered a resolution of inquiry in relation to the office of Lieutenant Governor, 39

offered resolutions of inquiry in relation to the article on the right of suffrage, 45, 81

offered resolution of inquiry in relation to the article on the legislative department, 45

offered resolution of inquiry in relation to the article on the judicial department, 81

offered resolution in relation to the manner of committees making their reports, 52

offered resolution in relation to incorporating into the journal resolutions of inquiry, &c., 64

offered resolution of inquiry in relation to elections and voters, 80

offered resolution in relation to manner of drawing seats in senate chamber, 82

presented petition that no person be disfranchised on account of color, 115

remarks upon—

adjournment *sine die* on the fourth of March, 502, 504

age of governor and lieutenant governor, 581

amendment of the rules, 48

PAGE

appointment of special committee on basis of representation, 63

appointment of special committee on bill of rights, 223, 224, 225, 226

appointment of special committee on the article upon incorporations, 429

appointment of special committee on right of suffrage, 218

apportionment of senators, 1011

apportionment of representation, 1015, 1016

basis of representation, 554, 555

biennial sessions of the general assembly, 513, 560, 562, 563

census and apportionment, 1011

city and county indebtedness, 52, 301, 325, 343, 344, 418, 805, 806

common school system, 828, 829

common law in this state, 213

compensation of board of education, 955

compensation for private property taken for public uses, 413

competency of witnesses, 172, 174, 176, 179, 184, 185, 198, 200, 734

delay in the publication of the debates, 494, 496

disposition of the school fund, 848, 1002

distribution of the debates, 765, 921, 1005

elections to fill vacancies, 801

election of judges of the supreme court, 453, 454

eligibility to general assembly, 527, 528, 576

expenses of board of education, 951, 965, 966

filling vacancy in the office of governor, 587

furnishing members with twenty-five daily newspapers, 23

furnishing members with additional newspapers, 75

furnishing members with reports of the supreme court, 89, 93

general banking, 347, 350, 353, 358, 359, 779

giving each editor in the state a copy of the debates, 1027

guaranteeing to school and university funds all losses in consequence of the fraud or mismanagement of state officers, 279

holding night sessions of the convention, 573

impairing the right of property, 208

impeachment of state officers, 574

journal—entering resolutions of inquiry, &c., upon, 85

Digitized by Google

PAGE

CLARKE, R. L. B.

remarks upon—

judicial districts—number of, 629, 633
Lee county—division of, 1000
liability of stockholders in banks, 364, 368 370, 789
lieutenant governor, 591, 595,
limitation of debate, 362, 500, 501
limitation of state indebtedness, 266, 267 268, 272
location of state capitol and university, 924, 925
location and change of county seats and boundaries, 535, 539, 552
making common schools free of charge, 970
manner of conducting business of the convention, 38
manner of conducting criminal prosecutions, &c., 121, 128, 124, 201, 736
manner of electing supreme judges, 453 454
mileage of members of the convention, 988
municipal and political corporations holding bank stock, 289, 290
natural rights of man, 733
night sessions of the convention, 573
number of courts, 234, 254, 255, 431
number of judicial districts, 629, 633
number of judges of supreme court, 448 463, 466
number of senators and representatives, 553, 576
oath to be taken by members of the convention, 8
offering resolutions of inquiry, 33, 86
office of lieutenant governor, 591, 595
order of business, 216, 217, 220, 223, 284 285, 878, 880, 886
personal and general explanation, 1056 1064
political corporations holding bank stock, 289, 290
postage of members of the convention, 1050
postage upon future mail matter of the convention, 1055
powers of the board of education, 848, 939 947
power of the governor to call special sessions of the general assembly, 584
preferred creditors of banks, 401
printing reports of special committee on bill of rights, 655

PAGE

printing reports of special committee on right of suffrage, 660
printing journal and constitution, 975, 981 982
private property taken for public uses, 203 205, 206, 207
prohibition of articles of manufacture and sale, 209
publication of debates, 28, 42
punishment of frauds in banking, 392
re-committing report of judiciary committee to said committee, 256, 257, 258
re-committing report on education and school lands to said committee, 855, 857
reference of article on bill of rights to special committee, 223, 224, 225, 226
reference of article on right of suffrage to special committee, 218
reference of article on incorporations to special committee, 429
reference of resolution of inquiry in relation to word "white" in the constitution, 46
reference of resolution of inquiry to committee on the bill of rights, 86
removal of convention from Iowa City, 15, 17
re-organization of judicial districts and courts, 638
religious tests and competency of witnesses, 172, 174, 176, 179, 184, 185, 198, 200, 734
repeal of banking laws, 404, 406, 773, 774
repeal of corporations, 110, 111, 115, 152, 154, 165, 168, 182
report of select committee on incorporations, 781
report of committee on amendments to the constitution, 612, 616, 618, 620, 626, 640, 1031, 1032
residence of voters, 863, 868, 870
residence of members of the general assembly, 568
resolution to adjourn on the fourth of March, 502, 504
resolution instructing committees to report by a stated time, 627
rights of persons, other than foreigners, not citizens, 130, 131, 132, 134, 136, 137
salaries of judges, 480, 485, 489, 491, 493, 505, 507
salary of lieutenant governor, 597, 598
salary of State officers, 555, 578

Digitized by Google

PAGE.

school fund, disposition of, 848, 1002
size of counties, 800
special committee upon basis of representation, 63
special committee on bill of rights, 223, 224, 225, 226
special committee on right of suffrage, 218
special committee on incorporations, 429
State bank and branches, 387, 389
State indebtedness, 266, 267, 268, 272
stockholders in banks, 364, 368, 370, 389
striking word "white" from article on militia, 641. 642
striking word "white" from constitution, 967, 676
submission of laws to the people, 802
system of common schools, 828, 829, 970
taxation of corporations, 780
temporary court for trial of judges and state officers, 455
term of office of governor and lieutenant governor, 586
time of electing members of the general assembly, 515
vote upon the constitution, 1055
vote of the people upon the question of calling a convention to revise the constitution, 1031, 1032
voters, term of residence in the State of, 863, 868, 870
"white," striking from the article on militia the word, 641, 942
"white," striking from the constitution the word, 667, 676

CLARKE, W. PENN.

appointed to request a clergyman to open the convention with prayer, . 5
appointed upon committee upon the subject of the removal of the convention from Iowa city, 5
appointed upon committee to draft the rules of the convention, 10
appointed upon committee upon reporting and publishing the debates of the convention, 11
appointed upon the standing committee upon the article upon the judicial department, 22
appointed upon the standing committee upon miscellaneous subjects, 22
appointed upon the committee to superintend the reporting and printing of the debates, 179
appointed upon committee on expenditures and accounts, 743
appointed upon select committee upon printing the journal and constitution, 815
appointed to certify the accounts of W. Blair Lord, and Luse, Lane & Co., for reporting and publishing the debates of the convention, 1051
appointed upon the committee to examine the new constitution, 1048
asked to be excused from serving upon the committee on accounts and expenditures, 990
credentials of, 6
made a report from the committee to draft the rules of the convention, 20
made a report from the committee on reporting and publishing the debates, 26
made report from standing committee on the judicial department, 115, 260
made minority report from the standing committee upon the judicial department, 116
made report from the judiciary committee upon the number of judicial districts, and the re-organization of courts, &c., 628
made report from the special committee upon printing the journal and constitution, 972
moved the appointment of a committee to draft the rules of the convention, 10
moved that the sergeant-at-arms be sent for proper person to administer oaths to members of the convention, 9
moved to admit the reporter of the Iowa Republican to the floor of the convention, 19
moved to refer the several articles of the constitution to their appropriate committees, 23
moved to print two thousand copies of the debates of the convention, 67
moved to amend the rules so that the reports of the standing committees should be read severally three times on three different days, 87, 118
moved the appointment of a committee to examine the new constitution, 1048

Digitized by Google

PAGE.

CLARKE, W. PENN.

nominated Samuel C. Trowbridge, sergeant-at-arms *pro tem* of the convention, 5

nominated Francis Springer for President of the convention, 6

offered a provision concerning the prohibition of intoxicating liquors, 139, 209

offered provision concerning the registering of the voters in this State, 868

offered resolution to proceed to the election of officers of the convention, 6

offered resolution to employ John Teesdale to print one hundred copies of the constitution, 11, 20

offered resolution to furnish members with the "constitutions of the States," 20

offered resolution to print two hundred copies of the rules of the convention, 23

offered resolution to employ John Teesdale to do the incidental printing of the convention, 24

offered resolution to appoint John Quaintance assistant fireman to the convention, 24

offered resolution of inquiry concerning the article upon the judicial department, 33

offered resolution to suppress the debate upon the subject of removal of convention from Iowa City, 35

offered resolution concerning the article upon the right of suffrage, 39

offered resolution calling upon t Secretary of State for information concerning the judicial districts of this State, 40

offered resolution for the appointment of a special committee upon the subject of basis of representation, 62

offered resolution for the translating and printing the constitution in German, 743

offered a resolution requiring the secretary of the convention to prepare an enrolled copy of the journal to be deposited in the office of the Secretary of State, 758

offered resolution concerning the compensation of the chaplain, 760

offered resolution concerning the distribution of the debates, 762, 766

offered resolution concerning the mailing of slips of debates to members, after adjournment, 1003

offered resolution of thanks to t reporters, 1034

PAGE

remarks upon—

addition of two members to the committee on accounts and expenditures, 958, 959, 961, 962

adjourning over to Monday, 507

age of members of board of education, 938

appointment of committee on charitable institutions, 118

apportionment of representation, 1013, 1014, 1015

biennial sessions of the general assembly, 561

bill of rights, 103

board of education, 723, 732, 744

city and county indebtedness, 50, 51, 52, 304, 305, 309, 386, 344, 415, 417 418, 421, 424, 425, 426, 427, 776, 805

classification of the judges of the supreme court, 472

common law in this state, 214

common school system, 826, 827, 833

compensation of the chaplain, 760, 761

compensation of members of board of education, 953, 957

compensation of secretary of state for distributing Greene's reports, 1048, 1049

compensation of secretary for distributing the journal, 985

compensation of secretary for preparing an enrolled copy of the journal, 877

competency of witnesses, 178, 196, 734, 735

contracts for state indebtedness in certain cases to be void, 273, 281, 282

conduct of first messenger, 276

delay in the publication of debates, 495

disposition of the school fund, 994

distribution of the debates, 761, 762, 851, 917, 918, 919, 921, 922, 1004

distribution of the constitution in German, 983, 984

drawing seats in senate chamber, 82

election of judges and other officers, 805

entering at large upon journal, reports, resolutions, &c., 85

filling vacancy in the office of governor, 587

first election of county officers, &c., under the new constitution, 966

furnishing members of the convention with acts of the general assembly of, 1855 an d1856, 19

furnishing members with daily newspapers, 23, 26

Digitized by Google

PAGE.

furnishing State historical society with daguerreotypes of members of the convention, 574
furnishing members with slips of debates, 69
furnishing members with the reports of the supreme court, 88, 89, 90
general banking, 346, 791, 792
giving each editor in the state a copy of the debates, 1027
giving magistrates jurisdiction of offences less than felony, 125
granting writ of *habeas corpus*, when applied for according to law, 125
Greene's reports of the supreme court; purchase of, 1051, 1052, 1053
guaranteeing to school and university funds losses from mismanagement or fraud of state officers, 277, 278
holding night sessions of the convention, 573, 814
issuing of paper money by other than banks, 403, 404
jurisdiction of district courts, 460
jurisdiction of justices of the peace, 810
liability of stockholders in banks, 363, 364, 366, 789
limitation of state indebtedness, 267, 272, 277
location and removal of county seats and boundaries by general assembly, 552
location of public lands by the state, 801
location of seat of government for the state, 926
location of state university, 838, 926
manner of conducting criminal prosecutions, 121, 123
manner of electing supreme judges, 450, 452
mileage and *per diem* of members of the general assembly, 528, 529
night sessions of the convention, 573, 814
nomination for first messenger, 7
nomination for second messenger, 8
nomination for reporter, 12
number of courts, 227, 228, 243, 253 254, 255, 438, 442 443, 468, 469
number of judges of supreme court, 447 458, 462, 465
number of judicial districts, 509, 629
number of senators and representatives, 542, 553
offering resolutions of enquiry, 32

PAGE.

office of lieutenant governor, 592
order of business, 216, 217, 221, 286 288, 329, 430, 882, 888
pardoning power of the governor, 589
personal and general explanation, 1061
political parties upon the question of slavery, 888
postponing consideration of report upon the legislative department, 219
postage of members of the convention, 1051
powers of board of education, 944
power of governor to call extra sessions of the legislature, 584
power of governor in board of education, 845
preparing enrolled copy of journal to be deposited in the office of secretary of state, 758
printing the constitution and journal, 814 815, 973, 974, 975, 979
printing reports of special committee on bill of rights. 654
printing reports of special committee on right of suffrage, 660
prosecuting attorneys, 475
provision for rendering void certain contracts with the state, 274, 280, 281, 282
publication of the debates of the convention, 22, 27, 43, 55, 56, 58, 69
purchasing Greene's reports of the supreme court, 1051, 1052, 1053
recommitting report on education and school lands to the committee on that subject, 857
reference of resolution of enquiry to committee on judicial department, 66
reference of report of the article on the bill of rights to a special committee, 226
reference of the article on the right of suffrage, to a special committee, 219
religious tests and competency of witnesses, 178, 196, 734, 735
removal of convention from Iowa City, 11, 12, 14, 16, 18,
reorganization of judicial districts and courts, 460, 507, 635, 636
repeal of banking laws, 504, 773
repeal of corporations, 105, 108, 145, 158 160, 161, 408, 409
report of the committee on amendments to the constitution, 603, 613, 611, 618 660, 621, 639, 640

Digitized by Google

PAGE.

residence of members of general assembly, 568, 1015
residence of voters, 860, 861, 862, 864, 870
resolution to add two members to committee on accounts and expenditures, 958 959, 961, 962
resolution to employ John Teesdale to print one hundred copies of the constitution, 11
rights of denizens; negroes and mulattoes, 131, 134, 137
salaries of judges, 479, 481, 485, 487 489, 491, 493, 506
salaries of state officers, 555
sessions of board of education, 825
size of counties, 798, 800
striking the word "white" from the constitution, 665, 666, 675, 680, 888,
state bank and branches, 373, 859
special legislation, 575
submission of laws to the people, 803
substitution of Cushing's manual for Jefferson's manual as the standard of parliamentary laws for the convention, 24
suppression of debate upon the subject of removing the convention from Iowa City, 35
temporary court for the trial judges and state officers, 457, 458
term of office of district judges, 472, 478
term of office of supreme judges, 471
trial by jury, 119
uniform operation of general laws, 532
use of private property for roads, 128
vote upon the constitution, 1054
veto power of the governor, 525, 567
"white," in constitution; resolution to strike out the word, 665, 666, 675 680, 888
Classification of members of the board of education, 78
of judges of the supreme court, 115, 259 449, 472
of senators, 83, 518, 551

remarks of—

Mr. Gillaspy, 520
Gower, 520
Harris, 518, 520, 523
Johnston, 523
Palmer, 517
Parvin, 516, 517, 519
Scott, 518, 510
Traer, 516, 517, 520, 522, 523
Young, 516, 521

Clearman, George; apppointed assistant messenger *pro tem*, 5
elected assistant messenger, 8
rate of *per diem* of. 760
amount of *per diem* of, 1050
Clerks of courts, 116, 260
Collar, Charles B.; resolution of thanks to, 1034
Collection of taxes; resolution of enquiry in relation to, 48
Collection of taxes; provision in relation to, 84, 531
Commissions to be sealed with the great seal of the state, 77, 588
Committees of the convention; resolution in relation to the number and character of the, 10, 19
Committee on accounts and expenditures, (special) 741, 743
Committee upon the basis of representation; (special) appointment of 62, 74

remarks of—

Mr. Clarke of Henry, 63
Hall, 62
Harris, 62, 63
Johnston, 62
Parvin, 63
Solomon, 63
Traer, 63

Committee upon the bill of rights; (special) appointment of, 223

remarks of—

Mr. Bunker, 223, 225
Clarke of Henry, 223, 224,
Hall, 223, 224, 225
Harris, 224
Johnston, 223, 226
Marvin, 226
Parvin, 224
Patterson, 225
Todhunter, 223
Wilson, 224

Committee on credentials, (special) 5
Committee upon distribution of debates, (special) 766, 780
Committee to ascertain the delay in printing tne debates, (special) 496
Committee upon incorporations, (special) 648, 773
Committee on printing the journal, (special) 815
Committee on reporting, (special) 11

Digitized by Google

PAGE.

Committee on the right of suffrage; (special) appointment of, 217
remarks of—
Mr. Clarke of Henry, 218
Edwards, 218
Gillaspy, 218
Hall, 218
Harris, 218
Palmer, 218
Skiff, 217
Warren, 218
Committee on rules of the convention (special), 10
Committees, standing; appointment of, 21, 22
amendments to the constitution, 22
bill of rights, 21
education and school lands, 22
executive department, 21
incorporations, 22
judicial department, 22
legislative department, 21
militia, 22
miscellaneous subjects, 22
right of suffrage, 21
schedule, 22
state debts, 21
Common pleas, court of; resolution of inquiry in relation to, 642
Common school fund; disposition of, 78, 744 771, 825, 697, 922, 991, 1001
remarks of—
Mr. Clarke of Henry, 848, 1002
Clarke of Johnson, 994
Gillaspy, 849, 993, 994
Gower, 744, 772, 850, 1001
Hall, 772, 994, 1001
Harris, 848
Johnston, 846, 847, 850
Marvin, 1001
Palmer, 846
Skiff, 847
Solomon, 848, 972, 992, 1003
Todhunter, 849
Traer, 847, 1001, 1003
Wilson, 993
Common schools, establishment of a system of, 78, 770, 816, 825, 953
remarks of—
Mr. Clarke of Henry, 828, 829
Clarke of Johnson, 826, 827, 833
Edwards, 834
Ells, 818, 830, 832, 968, 971
Gibson, 770, 816, 823

PAGE

Gillaspy, 824, 825, 826, 827, 829, 832, 833
Gower, 816, 830
Hall, 827, 830, 831, 835
Marvin, 825, 827, 837
Parvin, 835
Scott, 830, 831
Skiff, 828, 830
Wilson, 953, 965, 969
Common schools to be free of charge, 968
remarks of—
Mr. Clarke of Henry, 970
Ells, 968, 971
Gillaspy, 968
Hall, 968, 969
Marvin, 968, 969
Parvin, 971
Skiff, 969
Traer, 970, 971
Wilson, 969
Common schools, to be kept up in each school district three months, 78, 770, 816
remarks of—
Mr. Clarke of Alamakee, 818, 821, 822
Gibson, 770, 816, 823
Gillaspy, 824
Gower, 816
Hall, 819, 822, 824
Harris, 817, 822
Marvin, 819
Palmer, 823
Scott, 817
Skiff, 816, 818
Todhunter, 816, 817, 822
Traer, 819
Commutations, governor to have power to grant, 75, 586
Compensation of reporter, 26
Compensation of printers of debates, 26
Compensation of members of board of education, 79, 772, 825
remarks of—
Mr. Clarke of Henry, 955
Clarke of Johnson, 953, 957
Hall, 956, 962, 964
Marvin, 964
Parvin, 962
Scott, 955
Skiff, 957
Wilson, 953, 963
Compensation of the chaplain, 780
Compensation of the President of the convention, 760

Digitized by Google

PAGE.

Compensation of the secretary of the convention, for distributing the journal, 985, 1005

Compensation of the secretary of the convention for enrolling the journal, 877

Compensation of the enrolling clerk, for enrolling the constitution, 1051

Compensation of reporter for superintending the printing, and indexing the debates, 761, 921

Compensation of the secretary of state for sundry services, 1051

Compensation for the use of private property, 97, 126, 202, 412, 420

remarks of—

Mr. Clark of Alamakee, 126, 127, 128
Clarke of Henry, 203, 205, 206, 207,
Emerson, 206
Gillaspy, 127, 205
Gower, 205, 206
Hall, 128, 206
Harris, 126, 128, 202, 204
Peters, 204
Scott, 204
Todhunter, 127
Traer, 128, 204
Warren, 207
Wilson, 203, 205, 207
Winchester, 203

Compensation, extra to contractors, public agents, &c., 38, 84, 539, 551

Competency of witnesses, 99, 172, 179, 651, 734

remarks of—

Mr. Bunker, 199
Clarke of Alamakee, 199
Clarke of Henry, 172, 174, 176, 179, 184, 185, 198, 200, 734
Clarke of Johnson, 178, 196, 734, 735
Edwards, 187, 188, 190
Ellis, 175
Gibson, 195
Gillaspy, 172, 174, 176, 184, 185, 186, 188, 195
Hall, 172, 174, 176, 178, 189, 190, 735
Harris, 174, 180, 184, 186, 188
Johnston, 200
Palmer, 735
Parvin, 176
Peters, 198, 199
Scott, 735
Skiff, 172
Wilson, 180, 185, 186, 194

PAGE

Conard, Willis, nominated for first messenger, 7
nominated for second messenger, 8
appointed paper folder, 95
rate of *per diem* of, 760
appointed to forward mail matter to members of the convention, 1012
amount of *per diem* of, 1051

Congress, first election under new constitution of members of, 914, 996

Congressional districts, formation of, 84, 549

Contractors, extra compensation to, 38, 84, 539, 551

Contracts for state indebtedness beyond constitutional provision to be void, 273, 280

remarks of—

Mr. Clarke of Johnson, 273, 281, 282
Hall, 275, 282
Harris, 274, 281
Marvin, 283
Palmer, 274, 281, 283
Parvin, 280
Solomon, 284
Traer, 280
Wilson, 282, 283

Constables, resolution of inquiry concerning duties of, 48

Constitutional appointment of standing committees upon, 22

Constitution, provisions in relation to future amendments of,

remarks of—

Mr. Bunker, 605
Clarke of Alamakee, 607, 608, 609, 610, 640
Clarke of Henry, 612, 616, 618, 620, 626, 640, 1031, 1032
Clarke of Johnson, 603, 616, 617, 618, 620, 621
Gibson, 603, 612, 615 618, 628, 626, 1032
Gillaspy, 604, 607, 608, 609
Gower, 615
Hall, 615, 617, 616, 621 622, 623, 624, 625 1031, 1032
Harris, 604, 606, 613, 614 1031, 1032
Marvin, 619, 620, 1031
Palmer, 611, 626, 639, 640
Parvin, 622
Scott, 606

Digitized by Google

PAGE.

Constitution; provision in relation to future amendments of,

remarks of—

Solomon, 611, 1031
Traer, 604, 607, 624, 625, 639
Wilson, 610, 616, 619, 620 621, 622, 623, 625 626, 1031, 1032
Winchester, 603, 604

Constitution: manner of taking the vote upon the new, 915, 998

Contested elections for governor and lieutenant governor, 76, 580

Contested elections for members of the general assembly, 88, 524

Convention; assembled in court room at Iowa City, 5
night sessions of, 573, 780, 813

remarks of—

Mr. Clark, of Alamakee, 813
Clarke, of Henry, 573
Clarke of Johnson, 572, 814
Gillaspy, 813
Harris, 813
Johnston, 813
Palmer, 573
Solomon, 573
Todhunter, 813
Wilson, 573, 813, 814

Convention; removal from Iowa City of, 5, 12

remarks of—

Mr. Ayres, 16
Bunker, 14
Clark of Alamakee, 17
Clarke of Henry, 15, 17
Clarke of Johnson, 11, 12, 14, 16, 18
Edwards, 18, 20
Ells, 11, 12, 13
Emerson, 17, 18
Gillaspy, 18
Gower, 16
Hall, 13, 15, 17, 18
Harris, 17, 18
Johnston, 11
Parvin, 13, 17
Patterson, 16, 17
Todhunter, 12
Traer, 12, 16
Wilson, 17, 18

Convention; time of daily meeting of, 64, 118

PAGE

Convention; provision in relation to calling a, 34, 36, 603, 1031

Corporations; powers of, 96, 289

Corporations; repeal of, 104, 143, 407, 420, 649

remarks of—

Mr. Bunker, 165
Clark of Alamakee, 106, 107, 111, 113 114, 156, 411
Clarke of Henry, 110, 111, 115, 152 164, 165, 168, 182
Clarke of Johnson, 105, 108 145, 158 160, 161, 408, 409
Edwards, 150
Harris, 109, 114, 156, 162, 407
Palmer, 104, 105, 171, 411, 412
Parvin, 109
Peters, 144, 145
Price, 151
Scott, 104
Skiff, 164, 168, 407, 408
Solomon, 161
Traer, 145, 409
Wilson, 105, 106, 107, 111, 114, 153 155, 160, 161, 407, 408, 409
Winchester, 158

Corporations; political and municipal corporations—[see municipal and political corporations.]

Corporations; state not to become a stockholder in, 96, 287, 648, 773

Corporations for pecuniary purposes to be taxed, 38, 96, 284, 415, 648, 773, 779

COTTON, AYLETT R.

appointed upon the standing committee upon bill of rights, 21
appointed upon the standing committee upon the schedule, 22
credentials of, 6
leave of absence granted to, 87
remarks upon the report upon the distribution of powers, 37

Countersigning of bank bills, 96, 344, 775

County business; resolution of inquiry in relation to, 48

County boundaries and seats; changing of by the legislature, 48, 532, 551, 556

remarks of—

Mr. Clark of Alamakee, 533, 536, 537 552, 555

Digitized by Google

PAGE

Clarke of Henry, 535, 539, 552
Clarke of Johnson, 552
Gillaspy, 534
Hall, 535, 538
Marvin, 532, 533, 535, 552
Peters, 556
Scott, 533
Solomon, 534
Traer, 533, 534, 537

County and city indebtedness; provision in relation to, 96, 290, 329, 415 421, 776, 805, 812

remarks of—

Mr. Ayres, 291, 292, 297
Clark of Alamakee, 51, 318, 324, 418 421, 423, 425, 426 427, 777, 808
Clarke of Henry, 52, 301, 325, 343 344, 418, 805, 806
Clarke of Johnson, 50, 51, 52, 304, 305 309, 336, 344, 415, 417 418, 421, 424, 425 426, 427, 776, 805
Edwards, 293, 295, 300, 301, 304, 306 316, 330, 335, 421, 422 423, 425, 776, 806, 812
Ells, 322
Emerson, 51, 297, 315, 316, 317, 318, 812
Gibson, 414, 810
Gillaspy, 294, 307, 328, 416 421, 777, 778, 805
Gower, 290, 294
Gray, 297
Hall, 51, 52, 292, 295, 299, 302, 303, 305 307, 313, 314, 324, 344, 327 328, 332, 343, 421, 426, 806
Harris, 291, 301, 306, 313, 329, 425
Johnston, 51, 291, 302, 342, 343, 426, 776
Marvin, 290, 297, 312, 423
Palmer, 298
Parvin, 305, 307, 314, 425
Patterson, 297
Peters, 317, 318, 417, 805
Price, 335
Scott, 313, 425
Skiff, 290, 311, 415, 425, 427, 808
Solomon, 311, 776, 778
Traer, 421, 775, 776, 777
Warren, 52
Wilson, 309, 327, 328, 416, 422
Young, 421

PAGE

County officers; resolution of inquiry in relation to election of, 48
first election of under the new constitution 914, 966
Counties; size of, 216, 294, 648, 798

remarks of—

Mr. Bunker, 800
Clarke of Henry, 800
Clarke of Johnson, 798, 800
Emerson, 800
Scott, 799, 800

County taxes; resolution of inquiry in relation to assessment of, 48
legislature to pass no special laws for assessment and collection of, 84, 531
County; term of residence of members of the general assembly in, 83, 516, 557 567, 1015

remarks of—

Mr. Clark of Alamakee, 569, 573
Clarke of Henry, 568
Clarke of Johnson, 568, 1015
Edwards, 571
Gower, 568
Gray, 567
Parvin, 571
Solomon, 567, 570, 571, 572
Traer, 557, 568, 572
County; term of residence of voters in, 36 860, 870

remarks of—

Mr. Clark of Alamakee, 860, 862
Clarke of Henry, 863, 868, 870
Clarke of Johnson, 860, 861, 862, 864, 870
Edwards, 866
Gibson, 867
Gillaspy, 860
Harris, 860, 864, 867
Marvin, 867
Palmer, 867
Price, 863
Scott, 865
Solomon, 861
Court of common pleas; resolution of inquiry in relation to establishment of, 642
Courts—[See district court and supreme court.]
Courts to continue pending business under the new constitution, 914, 996
Courts of justice; resolution of inquiry in relation to practice in, 48

Digitized by Google

PAGE.

Courts; number of, 115, 228, 259, 430, 467

remarks of—

Mr. Clark of Alamakee, 238, 436, 441 442, 471
Clarke of Henry, 234, 254, 255, 431
Clarke of Johnson, 227, 228, 243, 253 554, 255, 438, 442 443, 468, 469
Gibson, 444
Gillaspy, 443
Gower, 254, 445
Hall, 227, 229, 246 255, 434, 438
Harris, 231, 254, 469, 470
Johnston, 439, 444
Palmer, 242, 251, 431 437, 442, 443
Peters, 241, 249, 442, 444 467, 468, 470
Scott, 435
Skiff, 228, 229
Solomon, 252, 467, 470
Traer, 444
Wilson, 236, 250, 255 430, 434, 440, 441
Winchester, 445

Courts; re-organization of judicial districts and, 166, 260, 460, 507, 628

remarks of—

Mr. Clark of Alamakee, 460, 635, 636, 637
Clarke of Henry, 638
Clarke of Johnson, 460, 507, 635, 636
Hall, 637
Palmer, 460
Wilson, 507, 636

Credentials; appointment of committee on, 5
report of committee on, 6

Crimes; resolution of enquiry in relation to punishment of, 48

Criminal and civil cases; resolution of enquiry in relation to change of venue in 48

Criminal prosecutions, &c.; manner of convicting, 69, 99, 119, 201, 736

remarks of—

Mr. Clarke of Alamakee, 120, 122, 737
Clarke of Henry, 121, 123 124, 201, 736
Clarke of Johnson, 121, 123
Hall, 120, 122, 123, 730
Harris, 119, 120 193, 736, 737
Johnston, 201
Palmer, 122
Parvin, 120, 122
Skiff, 201
Solomon, 122
Wilson, 121, 124, 738, 740

Currency; resolution in relation to the appointment of standing committee upon, 10

Cushing's Manual; substitute for Jefferson's Manual, as the standard of parliamentary practice in the convention,

D

Daguerreotypes of members of the convention for the State Historical Society, 574

Daily meeting of the Convention; time of, 64, 118

Davenport; invitation for removal of convention to the city of, 5
appointment of committee upon proposition of, 5
report of committee upon proposition of, 12

DAY, TIMOTHY
appointed upon the standing committee upon the preamble and bill of rights, 21
appointed upon standing committee upon future amendments to the constitution, 22
mileage of, 1026
signed minority report from the committee on future amendments to the constitution, 80

remarks upon—

Lee county; division of, 1000
mileage of members of the convention, 989
repeal of banking laws, 406
salaries of judges, 488, 504

Debates of the convention; appointment of a committee in relation to reporting and publishing the, 11

Debates of the convention; appointment of a committee to superintend the reporting and publishing of, 27, 179

Debates of the convention; appointment of a special committee to ascertain the cause of delay in publishing, 496

Debates of the convention; appointment of a special committee upon the manner of distributing, 776, 780

Debates of the convention, 761, 850 917, 972, 1004

Digitized by Google

PAGE.

remarks of—

Mr. Bunker, 617
Clark of Alamakee, 765, 920, 1004, 1005
Clarke of Henry, 765, 921, 1005
Clarke of Johnson, 761, 762, 851, 917, 918, 919, 921, 922, 1004
Gibson, 764
Gillaspy, 764, 852, 917, 974
Gower, 763, 918, 922
Hall, 918, 919, 920
Harris, 852
Marvin, 765, 853, 918, 921
Palmer, 763, 765, 766, 917
Skiff, 764, 917, 920, 1004
Solomon, 762, 764, 018, 920
Todhunter, 761, 763, 853, 917, 919, 921, 1005
Traer, 763, 852, 853, 918, 920, 1001
Warren, 1005
Wilson, 761, 763
Winchester, 761, 763, 766, 850, 851, 852
Young, 852, 917

Debates of the convention; form and size of, 26, 53

Debates of the convention; editors of papers to be given a copy of, 1026

remarks of—

Mr. Clark of Alamakee, 1027, 1028
Clarke of Henry, 1027
Clarke of Johnson, 1027
Gibson, 1027
Gillaspy, 1026
Gower, 1027
Gray, 1027
Hall, 1026, 1027, 1028
Harris, 1027
Palmer, 1027
Parvin, 1027
Patterson, 1027
Skiff, 1027
Todhunter, 1027
Wilson, 1026

Debates of the convention; proofs to be furnished to members, 20, 53

Debates of the convention; publication of, 26, 53, 68, 179

remarks of—

Mr. Clark of Alamakee, 28, 44, 56
Clarke of Henry, 28, 42
Clarke of Johnson, 22, 27, 43, 55, 56, 58, 59
Ells, 27, 41, 42, 57, 67
Emerson, 56
Gillaspy, 67
Hall, 27, 54, 57
Harris, 41, 45, 55
Johnston, 44, 54, 58
Palmer, 67
Parvin, 41, 44, 54
Peters, 57, 58
Price, 42
Solomon, 56
Todhunter, 59
Traer, 40, 41, 42, 43, 54, 67, 71
Warren, 27, 28

Debates of the convention; report of the committee on a reporter of the, 12

Debates of the convention; report of the committee upon publishing the, 26

Debates of the convention; members to be furnished with slips of, 26, 53, 68, 179

remarks of—

Mr. Bunker, 29
Clark of Alamakee, 29, 67, 70, 72
Clarke of Johnson, 69
Edwards, 68, 71
Gillaspy, 70, 73
Gower, 28, 29, 73
Hall, 29, 68, 70, 73
Harris, 28, 68, 70, 179
Marvin, 179
Palmer, 28, 29, 68
Parvin, 70
Traer, 28, 71
Wilson, 71
Winchester, 29
Young, 28, 29

Debt; provision in relation to imprisonment for, 99, 129, 207

Debts; state, (see indebtedness of the state.)

Denizens; persons not citizens, other than foreigners, 129, 130

remarks of—

Mr. Clarke of Henry, 130, 131, 132, 134, 136, 137
Clarke of Johnson, 131, 134, 137
Gillaspy, 130, 131, 132, 133
Hall, 130, 131, 132, 134, 135, 136
Harris, 130, 133, 136
Marvin, 132

Digitized by Google

PAGE.

Skiff, 134
Todhunter, 136
Traer, 132, 136
Wilson, 135, 136
Des Moines; location of the capitol at, 88, 877, 922, 1017
remarks of—
Mr. Bunker, 934
Clark of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 926
Edwards, 877, 930
Gillaspy, 877
Gower, 922, 925
Hall, 877, 931
Harris, 926
Palmer, 877, 933
Traer, 1017
Winchester, 1017
Disposition of the school fund, 78, 744, 771 816, 697, 922, 991, 1001
remarks of—
Mr. Clarke of Henry, 848, 1002
Clarke of Johnson, 994
Gillaspy, 849, 993, 994
Gower, 744, 772, 850, 1001
Hall, 772, 994, 1001
Harris, 848
Johnston, 846, 847, 850
Marvin, 100
Palmer, 847
Skiff, 846
Solomon, 848, 972, 992, 1003
Todhunter, 849
Traer, 847, 1001, 1003
Wilson, 993
Distribution of powers and the legislative department; appointment of standing committee upon, 10, 19, 21
resolution of enquiry referred to the standing committee upon, 33
report from the standing committee upon, 37
third reading of the article upon, 1008
yeas and nays upon final passage of article upon, 1014
District attorneys; provision in relation to election of 38, 260
first election under the new constitution of, 914, 990
District courts; clerks and reporters of, 116, 260
jurisdiction of, 16, 259, 455, 459
manner of electing, 115, 259, 455

PAGE

District Judges; first election under the new constitution of, 914, 996
impeachment of, 83, 551, 574
salaries of 84, 116, 259, 478, 504 550, 555, 578
remarks of—
Mr. Clark of Alamakee, 480, 489
Clarke of Henry, 480, 485, 489, 491 493, 505, 507
Clarke of Johnson, 479, 481, 585, 487 489, 491, 493, 506
Day, 488, 504
Edwards, 488
Ells, 487
Emerson, 486
Gibson, 481
Gillaspy, 480, 482, 493, 506
Gray, 481, 504, 505, 506
Hall 480, 481, 483, 484 486, 491, 505, 506, 507
Harris, 479, 483, 484
Marvin, 482, 483
Patterson, 505
Peters, 485, 487
Solomon, 506
Traer, 479, 483
Wilson, 479, 484, 490, 491 493, 506
Winchester, 481
District judges; term of office of, 115, 259 435, 472
trial of, 116, 260, 457
vacancies in office of, 116, 260
Districts; formation of congressional, representative and senatorial, 84, 549
Districts for judicial purposes; number of, 115, 259, 450, 475 508, 628
remarks of—
Mr. Clarke of Alamakee, 629, 630
Clarke of Henry, 629, 633
Clarke of Johnson, 509, 629
Edwards, 631
Gibson, 634
Gower, 475
Harris, 475, 509, 632, 634
Parvin, 630
Patterson, 655
Price, 620
Skiff, 631
Wilson, 634
Winchester, 633
Young, 632, 634

Digitized by Google

PAGE.

Districts for judicial purposes; plan of, 874
reorganization of, 116, 260, 460, 507, 628
remarks of—
Mr. Clarke of Henry, 688
Clarke of Johnson, 460, 507, 635, 636
Hall, 637
Palmer, 460
Wilson, 507, 636
Divorces; resolution of enquiry in relation to the granting of, 48
Divorces; provision in relation to granting, 84, 530
Documents furnished to members of the convention—
abstract of each county in the state, 34
acts of the legislature of 1855-56, 10, 19
code of Iowa, 10
constitutions of the states, 20
list of organized counties in the state, 26
newspapers, 10, 23
remarks of—
Mr. Clark of Alamakee, 74, 75, 76
Clarke of Henry, 23, 75
Clarke of Johnson, 23, 26
Gillaspy, 75
Hall, 23, 25
Harris, 25
Johnston, 10
Palmer, 23, 25
Todhunter, 75
Traer, 25, 75
Wilson, 23
Documents furnished to members of the convention—
Parker's sectional map, 26
reports of the supreme court, 88
remarks of—
Mr. Clark of Alamakee, 91, 94
Clarke of Henry, 89, 93
Clarke of Johnson, 88, 89, 90
Edwards, 88, 89, 93
Emerson, 88
Gillaspy, 90, 91
Gower, 88
Hall, 88, 89, 91, 92, 93
Harris, 88, 89, 92
Johnston, 94
Palmer, 88, 89
Scott, 90
Solomon, 92
Todhunter, 89
Traer, 91, 92, 93
Winchester, 90
Young, 90
Documents furnished to members; resolution to return to secretary of state, 990
Door-keeper, Francis Thompson, elected, 7
rate of *per diem* of, 759
amount of *per diem* of, 1050
Drawing seats in the senate chamber, 81
remarks of—
Mr. Clarke of Johnson, 82
Emerson, 82
Gower, 81
Hall, 82
Harris, 81, 82
Palmer, 82
Peters, 82
Skiff, 82
Todhunter, 82
Warren, 82
Wilson, 81
Dueling; provision in relation to, 99, 118

E

Editors and reporters to be admitted to the floor of the convention, 19
Editors to be furnished with a copy of the debates, 1026
remarks of—
Mr. Clark of Alamakee, 1027, 1028
Clarke of Henry, 1027
Clarke of Johnson, 1027
Gibson, 1027
Gillaspy, 1026
Gower, 1027
Gray, 1027
Hall, 1026, 1027, 1028
Harris, 1027
Palmer, 1027
Parvin, 1027
Patterson, 1027
Skiff, 1027
Todhunter, 1027
Wilson, 1026
Education; board of, establishment of board of 39, 78, 720, 743
766, 815, 871, 934
remarks of—
Mr. Clarke of Johnson, 723, 732, 744
Edwards, 943
Ells, 731, 757, 950
Hall, 600, 721, 723
725, 730, 750
754, 937, 942, 946

Digitized by Google

PAGE.

Education; board of, establishment of board of.

remarks of—

Harris, 937, 944
Johnston, 724, 725, 766
Marvin, 600, 756, 949, 950
Palmer, 723, 747, 750
Scott, 944, 949
Skiff, 731, 755
Solomon, 722, 725, 767
Todhunter, 769
Wilson, 722, 723, 724, 748 935, 941

Education and school lands; appointment of committee upon, 10, 19, 22
consideration of article upon, 599, 720, 743 766, 815, 934
first report from committee upon, 78
re-commitment of report to committee upon, 853

remarks of—

Mr. Clarke of Johnson, 857
Edwards, 855
Ells, 856
Gillaspy, 853, 854
Harris, 854
Marvin, 855
Patterson, 856
Skiff, 854
Todhunter, 853, 856
Wilson, 854
Winchester, 855

Education and school lands—resolution of enquiry referred to, 40
second report from committee upon, 871
third reading of article upon, 1028
yeas and nays upon final passage of article upon, 1030

EDWARDS, JOHN,

appointed upon committee upon the subject of the removal of the convention from Iowa City, 5
appointed upon the committee to draft the rules of the convention, 10
appointed upon the standing committee upon the right of suffrage, 21
appointed upon the standing committee upon education and school lands, 22
appointed chairman of the committee of the whole on the preamble and bill of rights, 98
credentials of, 6
made a report from the standing committee on the right of suffrage, 36
mileage of, 1025
moved an amendment to resolution to furnish members of the convention with daily newspapers, 23
moved the indefinite postponment of the resolution in relation to making up the journal,
offered a resolution to furnish members with Code of Iowa and acts of legislature, 10
offered resolution of inquiry in relation to the judicial department, 38
offered resolution of enquiry in relation to the passage of special laws, 47
offered a resolution in regard to the time of the daily meeting of the convention, 118
offered a resolution for adjournment *sine die*,
offered a resolution in relation to personalities between members, 1062
personal explanation of, 508

remarks upon—

adjournment over till May, 497
appointment of special committee on the right of suffrage, 218
basis of general banking, 344, 346, 351, 789
biennial sessions of the general assembly, 511
board of education, 943
boundaries of the State, 141, 142
census and apportionment, 1011
city and county indebtedness, 293, 295, 300 301, 304, 306, 316 330, 335, 421, 422 423, 425, 776, 806 812
common school system, 834
competency of witnesses, and religious tests, 187, 188, 190
conduct of first messenger, 276
court of common pleas, 642
entering resolutions of enquiry at large upon the journal, 85
filling temporary vacancies in district courts, 459
first messenger; conduct of, 276
furnishing members with slips of debates, 68, 71

Digitized by Google

PAGE.

furnishing members with reports of he supreme court, 88, 89, 93
general banking, 344, 346, 351, 789
impeachment of State officers, 574
instructing committees to report by a given time, 627
judicial districts; number of, 631
judges; salaries of, 488
Lee county; division of, 999, 1036
limitation of debate, 500
limitation of State indebtedness, 265
location of State capitol and university, 877, 930
manner of conducting the business of the convention, 38,
mileage of members of the convention, 986 987, 989
number and classification of senators, 521
number of judicial districts, 631
offering resolutions of enquiry, 31, 46
order of business, 88, 97, 217, 222 288, 719, 882
personal explanation, 508
personal and general explanation, 1062
political parties in regard to the question of slavery, 680, 691
powers of the board of education, 943
printing the reports of the special committee upon the bill of rights. 656
printing the reports of the special committee on the right of suffrage, 659
printing the journal and constitution, 974, 976, 977
prosecuting attorneys, 456
punishment of frauds in banking, 392
recommitting the report of the committee on education and school lands, 855
religious tests and competency of witnesses, 187, 188, 190
removal of convention from Iowa City, 18, 20
repeal of corporations, 150
residence of members of the general assembly, 571
residence of voters, 866
resolution to adjourn over until May, 497
salaries of judges, 488
senators; number and classification of, 521
slavery; political parties upon, 680, 691
state bank and branches, 380
state boundaries, 141, 142
state indebtedness, 265
striking word "white" from the constitution, 680, 691
system of common schools, 834
temporary vacancies in district courts, 459
uniform operation of general laws, 531
university and state capitol; location of, 877, 930
vacancies in district courts, 459
voters; residence of, 866
"white"; striking from the constitution the word, 680, 691
elections; by ballot, 36, 869
contested, of general assembly, 83, 524
contested, of governor and lieutenant governor, 76, 580
for filling vacancies, 648, 800, 811
general assembly to elect *viva voce*, 84, 549
of judges of the supreme court, 115, 258 449

remarks of—

Mr. Clarke of Henry, 453, 454
Clarke of Johnson, 805
Hall, 450, 452
Palmer, 455
Wilson, 449, 451
petition in relation to the time of holding, 79
resolution of enquiry in relation to, 48, 81
time of holding, 30, 39, 82, 514, 575, 805

remarks of—

Mr. Clarke of Henry, 515
Gillaspy, 515
Palmer, 515
Parvin, 514, 515
Winchester, 514
Young, 514, 575
under the new constitution, 914, 955
of United States Senators, 644

remarks of—

Mr. Hall, 645
Palmer, 645
Parvin, 645
Electors, (see voters.)
Eligibility—resolution of enquiry in relation to, 47
provision in relation to members of the board of education, 78, 768
provision in relation to members of the general assembly, 84, 527, 557, 576
provision in relation to governor and lieutenant governor, 77, 580, 586
provision in relation to State officers, 812

Digitized by Google

PAGE.

ELLS, GEORGE W.

appointed upon the committee upon the removal of the convention from Iowa City, 5

appointed upon the standing committee upon the preamble and bill of rights, 21

appointed upon the standing committee on education and school lands, 22

credentials of, 6

made a report, from the committee upon the removal of the convention from Iowa City, 12

made a report from the standing committee on preamble and bill of rights, 64

made minority report from the standing committee on education and school lands, 79

mileage of, 1025

moved a substitute for the report of the committee upon the removal of the convention from Iowa City, 12

moved to substitute Cushing's Manual for Jefferson's Manual, as the standard of parliamentary law in the convention,

nominated Thomas J. Saunders as secretary *pro tem.* of the convention, 5

nominated Thomas J. Saunders as permanent secretary of the convention, 7

offered a resolution to furnish members of the convention with Cushing's Manual, 42

offered a resolution in relation to limitation of debate, 360

remarks upon—

bill of rights, 100
board of education, 602, 728
city and county indebtedness, 322
common school system, 818, 830, 832 968, 971
competency of witnesses and religious tests, 175
delay in the publication of the debates, 495
election of judges of supreme court, 454
general banking, 347, 348
judges of supreme court, 454, 487
limitation of debate, 361
making common schools free of charge, 968 971
manner of electing supreme judges, 454
order of business, 98. 284, 285, 718
personal and general explanation, 1063
political parties in regard to the question of slavery, 905
preamble and bill of rights, 100
preferred creditors of banks, 397
publication of the debates, 27, 41, 42 57, 67
re-committing report of committee on education and school lands, 856
religious tests and competency of witnesses, 175
removal of convention from Iowa City, 11 12, 13
report of committee on the preamble and bill of rights, 100
report of the committee on incorporations, 104, 143, 168 171, 407
Salaries of judges, 487
state bank and branches, 381, 382, 384, 389
striking word "white" from the constitution, 672, 675, 691, 905
supreme court judges, 454, 487
system of common schools, 818, 830, 832 968, 971
term of school in each district, 818
"white"; striking from the constitution the word, 672, 675, 691, 905

EMERSON, J. H.

appointed upon the committee upon the subject of the removal of the convention from Iowa City, 5

appointed upon the standing committee upon the distribution of powers and the legislative department, 21

appointed upon the standing committee on incorporations, 23

credentials of, 6

mileage of, 1025

offered a resolution to admit the reporter of the "North-west" newspaper to the floor of the convention, 23

remarks upon—

City and county indebtedness, 51. 297, 315 316, 317, 318, 312
distribution of the constitution in German, 984
drawing seats in the senate chamber, 82
entering resolutions of inquiry upon the journal, 85
exclusive jurisdiction of the United States over territory in the state of Iowa, 210 211

Digitized by Google

PAGE.

furnishing members of the convention with reports of the supreme court, 88
general banking, 356
liability of stockholders in banks, 786
number of copies of debates to be published, 56
offering resolutions of inquiry, 48
private property taken for public uses, 206
publication of the debates, 56
reference of resolutions of inquiry to the standing committee on the judicial department, 66
removal of convention from IowaCity, 17, 18
report of the committee on incorporations, 112, 171
salaries of judges, 486
size of counties, 800
stockholders in banks, 786

Empanelling of grand and petit jurors; resolution of inquiry in relation to, 48

Enquiry; resolutions of—
by Mr. Ayres, in relation to city and county indebtedness, 32
by Mr. Bunker, in relation to state bank and branches, 38
by Mr. Clark of Alamakee, in relation to general banking, 39
by do., in relation to the judicial department, 64
by Mr. Clarke of Henry, in relation to elections, 80
by do., in relation to the judicial department, 81
by do., in relation to the legislative department, 45
by do., in relation to the establishment of the office of Lieutenant Governor, 39
by do., in relation to the right of suffrage, 45, 81
by Mr Clarke of Johnson, in relation to the judicial department, 33
by Mr. Edwards, in relation to the judicial department, 38
by do., in relation to the passing of special laws, 47
by Mr. Gibson, in relation to the article upon state debts, 34
by Mr. Gower, in relation to banking, 59
by do, in relation to the location of the seat of government, 88
by do., in relation to the proper distribution of the school fund, 47

PAGE

by Mr. Harris, in relation to the plan of dividing the state into judicial districts, 876
by Mr. Johnston, in relation to education and school lands, 39
by do., in relation to the legislative department, 30
by Mr. Palmer, in relation to the judicial department, 82
by Mr. Parvin, in relation to education and school lands, 62
by do., in relation to state debts, 34
by Mr. Peters, in relation to the judicial department, 46
by Mr. Price, in relation to the executive department, 39
by Mr. Solomon, in relation to the age of state officers, 47
by do., in relation to the issuing of paper money in this state, 39
by do., in relation to the prohibition of articles of manufacture and sale, 39
by Mr. Todhunter, in relation to the executive department, 35
by Mr. Traer, in relation to the article upon amendments to the constitution, 33
by Mr. Wilson, in relation to the article upon amendments to the constitution, 34
by do., in relation to the legislative department, 28

Enquiry; offering resolutions of—

remarks of—

Mr. Clark of Alamakee, 33, 87
Clarke of Henry, 33, 86
Clarke of Johnson, 32
Edwards, 31, 46,
Emerson, 48
Hall, 86
Harris, 86
Johnston, 31, 40, 46, 86
Marvin, 33
Palmer, 40
Parvin, 31, 32
Warren, 87
Wilson, 87
Enrolling the constitution, 1012
compensation for, 1055
Enrolling the journal, 758
compensation for, 877
Excessive fines not to be imposed, 99, 126

Executive department; appointment of standing committee upon, 10, 19, 21
consideration of article upon, 579

Digitized by Google

PAGE.

report from the standing committee upon, 76
resolutions of enquiry referred to, 89, 47
third reading of article upon, 1017
yeas and nays upon final passage of article upon, 1019
Executors; resolution of enquiry in relation to the sale of real estate by, 48
Expenditures; appointment of committee on accounts and, 741, 743
Ex-post-facto laws not to be passed by the general assembly, 100, 129, 208
Extra compensation, to public agents, officers and contractors, 38, 84, 539, 551
Extra sessions of the general assembly, 39, 77, 583

F

Fees, resolution of enquiry in relation to, 48
Final passage of bills by the general assembly, 83, 527
Final vote upon—
preamble and bill of rights, 1008
right of suffrage, 1008
legislative department, 1017
capitol and university, 1017
executive department, 1019
judicial department, 1020
militia, 1020
state debts, 1021
corporations, 1022
education and school fund, 1030
amendments to the constitution, 1033
miscellaneous subjects, 1034
schedule, 1040
the new constitution, 1054
Finance and banking, resolution in relation to the appointment of a standing committee upon, 10
Fines, devoted to the use of schools, 78, 871, 967
excessive, not to be imposed, 99, 126, 202
governor to have power to remit, 77, 587
penalties and forfeitures to remain in force under the new constitution, 914, 995
Fireman to the convention—
J. H. Merritt appointed *pro tem.* 5
J. H. Merritt elected, 7
rate of *per diem* of, 759
amount of *per diem* of, 1050
John Quaintance elected assistant, 24
rate of *per diem* of, 759
amount of *per diem* of, 1050
First messenger to the convention—
James Hawkins appointed *pro tem.* 5
James Hawkins elected, 7
rate of *per diem* of, 759
amount of *per diem* of, 1050
Willis Conard nominated for, 7
Foreigners, rights of, 100, 129
Forfeitures; governor to have power to remit, 77, 587
fines and penalties to remain in force under the new constitution, 914, 995
Formation of congressional, representative and senatorial districts, 84, 549
Frauds in banking; punishment of, 392, 419
remarks of—
Mr. Clark of Alamakee, 394
Clarke of Henry, 392
Edwards, 392
Gillaspy, 392, 393, 394
Hall, 392, 393
Scott, 392
Skiff, 392
Solomon, 393
Traer, 393, 394
Wilson, 393
Freedom of the press; provision in relation to, 99, 118
Freedom from seizure and search; right of the people to, 99, 918
Freedom of speech; provision in relation to, 99, 118
Free of charge; schools to be, 968
remarks of—
Mr. Clarke of Henry, 970
Ells, 968, 971
Gillaspy, 968
Hall, 968, 969
Marvin, 968, 969
Parvin, 971
Skiff, 969
Traer, 970, 971
Wilson, 969

G

Gate City; reporter of, admitted to the floor of the convention, 19
General assembly; apportionment of members of, 84, 540, 1011, 1013
remarks of—
Mr. Clarke of Henry, 1015, 1016
Clarke of Johnson, 1013, 1014, 1015
Marvin, 1016

Digitized by Google

PAGE.

Parvin, 549, 1015
Skiff, 1011
Traer, 540, 1014, 1015
Wilson, 1015
General assembly; biennial sessions of, 82, 510, 558
remarks of—
Mr. Clarke of Henry, 513, 560, 562, 563
Clarke of Johnson, 561
Edwards, 511
Gibson, 511, 561
Gillaspy, 566
Gower, 510, 566
Hall, 510, 512, 559
Harris, 511, 513, 564
Marvin, 512, 566
Palmer, 510, 511
Parvin, 510, 559
Traer, 560
Wilson, 563
Winchester, 562
General assembly; elections by, to be *viva voce*, 84, 549
first regular session of, under the new constitution, 914, 997
oath to be taken by members of, 84, 540
per diem and mileage of, 30, 84, 528, 551
remarks of—
Mr. Clarke of Johnson, 528, 529
Parvin, 529
Wilson, 528, 529
General Assembly—petition in relation to time of meeting of, 79
powers and duties of members of, 85, 524
qualifications of members of, 83, 516
special sessions of, 39, 77, 553
term of residence of, 83, 516, 557, 567 1015
remarks of—
Mr. Clark of Alamakee, 569, 573
Clarke of Henry, 568
Clarke of Johnson, 568, 1015
Edwards, 571
Gillaspy, 557, 569, 571
Gower, 568
Gray, 567
Parvin, 571
Solomon, 567, 570, 571, 572
Traer, 557, 568, 572
General Assembly—time of election of members of, 30, 37, 82, 514, 575 805

PAGE.

Mr. Clarke of Henry, 515
Gillaspy, 514, 535
Palmer, 515
Parvin, 514, 515
Winchester, 514
Young, 514, 575
General Assembly—time of meeting of, 83 510, 558
General banking—provisions in relation to, 96, 844, 362, 419 775
remarks of—
Mr. Clarke of Alamakee, 370, 371, 786
Clarke of Henry, 347, 350, 353, 358 359, 364, 368, 370 779, 789
Clarke of Johnson, 346, 791, 792
Edwards, 344, 346, 351, 789
Ells, 347, 348,
Gibson, 354
Gillaspy, 350, 363, 794
Gower, 363
Hall, 346, 348, 350, 352 353, 357, 359, 774
Harris, 775
Johnson, 347
Marvin, 788
Palmer, 372, 786, 787
Parvin, 347, 354, 785, 788
Peters, 357
Skiff, 346
Solomon, 394, 791
Traer, 787, 788, 789
Wilson, 355, 358, 363, 370 775, 789
Young, 370
German—printing the constitution in, 743 973, 975
remarks of—
Mr. Gower, 976
Johnston, 743
Scott, 976
German—distribution of the constitution in, 983
remarks of—
Mr. Clarke of Johnson, 983, 984
Gillaspy, 984
Hall, 988
Harris, 984
Parvin, 984
Warren, 984
Wilson, 984

Digitized by Google

PAGE.

GIBSON, H. D.
appointed upon the committee to conduct the President elect of the convention to his seat, 6
appointed upon the standing committee upon state debts, 22
appointed upon the standing committee upon future amendments to the constitution, 22
appointed chairman of the committee of the whole, on the article upon the executive department, 579
credentials of, 6
made a minority report from the committee upon future amendments to the constitution, 68
mileage of, 1026
offered a resolution of enquiry in relation to the article upon State debts, 84
offered resolutions for holding night sessions of the convention, 780, 815
offered a resolution in relation to printing the constitution in the Holland language, 815
offered a resolution to add two members to the committee on accounts and expenditures, 958

remarks upon—

adding two members to the committee on accounts and expenditures, 958, 959, 960, 961
biennial sessions of the general assembly, 511, 561
city and county indebtedness, 424, 810
common schools, 770, 816, 823
competency of witnesses and religious tests, 195
distribution of the debates, 764
general banking, 354
giving each editor in the State a copy of the debates, 1027
judges—salaries of, 481
judicial districts—number of, 634
jurisdiction of justices of the peace, 795, 797, 798
lieutenant governor, 595
limitation of State indebtedness, 263, 270
location of State capitol and university, 771, 840
making a minority report from the committee upon future amendments to the constitution, 86

PAGE

manner of conducting the business of the convention, 38
number of courts, 444
number of judicial districts, 634
order of business, 880
political parties—upon the question of slavery, 694
printing the constitution in the Holland language, 743, 815
religious tests and competency of witnesses, 195
report of the standing committee upon future amendments to the constitution, 603 612, 615, 618, 623 626, 1032
residence of voters, 867
salaries of judges, 481
slavery question—course of political parties upon, 694
state bank, 374
state indebtedness, 263, 270
state capitol and university—location of, 771, 840
striking word "white" from the constitution, 694
system of common schools, 770, 816, 823
term of schools in each school district, 770 816, 823
university—location of, 771, 840
voters—residence of, 867
"white"—striking from the constitution the word, 694

GILLASPY, GEORGE,
appointed upon the standing committee on military affairs, 22
appointed upon the standing committee on the schedule, 22
appointed upon the special committee to ascertain the cause of delay in printing the debates,
appointed chairman of the committee of the whole upon the report of the special committee on the right of suffrage, 664
appointed upon the standing committee upon education and school lands, 859
credentials of, 6
mileage of, 1026
moved that Mr. Johnston be added to the committee on military affairs, 73
nominated Phillip P. Bradley for permanent secretary, 7

Digitized by Google

PAGE.

nominated D. F. Gaylord for sergeant-at-arms, 7
offered a protest against the schedule, 1037
offered a resolution in relation to place of meeting of the convention, 23
offered a resolution in relation to fixing a time for adjournment *sine die*, 860
offered a resolution for holding night sessions of the convention, 574

remarks upon—

adding two members to the committee on accounts and expenditures, 959
adjourning over till May, 498, 499
adjourning over till Monday, 507
age of governor and lieutenant governor, 581, 582
appointment of special committee on the right of suffrage, 218
biennial sessions of the general assembly, 566
capitol and university; location of, 877
city and county indebtedness, 294, 307, 328 416, 421, 777 778, 805
classification of senators, 520
common school system, 824, 825, 826, 827 829, 832, 833
competency of witnesses and religious tests, 172, 174, 176, 184 185, 186, 188, 195
county seats and boundaries, 534
court of common pleas, 643
denizens; persons other than foreigners not citizens, 130, 131, 132, 133
disposition of the school fund, 849, 993, 994
distribution of the constitution in German, 984
distribution of the debates, 764, 852 917, 919
election of members of the general assembly, 514, 575
furnishing members with fifteen additional newspapers 75
furnishing members with reports of the supreme court, 90, 91
furnishing members with slips of the debates, 70, 72
general banking, 350, 363, 794
giving each editor in the state a copy of the debates, 1026
holding night sessions of the convention, 813

PAGE

impairing the right of property, 208
judges of the supreme court; number of, 462
jurisdiction of justices of the peace, 796 798
Lee county; division of, 999
length of school in each district, 824
limitation of debate, 501
limitation of state indebtedness, 261, 262 268
location and change of county seats and boundaries, 534
location of state capitol and university, 877
making common schools free of charge, 968
mileage of members of the convention, 986 987
night sessions of the convention, 813
number of courts, 443
number of judges of the supreme court, 462
number and classification of senators, 520
order of business, 220, 221, 223, 284 285, 287, 718, 878 879, 880, 885, 888
personal explanation, 1024
personal and general explanation, 1064
preferred creditors of banks, 402
printing the reports of the special committee on the bill of rights, 654
printing the reports of the special committee on the right of suffrage, 659
private property taken for roads, 127
private property taken for public uses, 205
prohibition of articles of manufacture and sale, 209
prosecuting attorneys, 477
provision that certain contracts for state indebtedness shall be void, 275
publication of the debates, 67
punishment of frauds in banking, 392, 393 394
re-committing the report of the judiciary committee to that committee, 257
re-committing the report of the committee of education and school lands to that committee, 853, 854
reference of resolutions of enquiry, 65
religious tests and competency of witnesses, 172, 174, 176, 184 185, 186, 188, 195
removal of the convention from Iowa City, 18

Digitized by Google

PAGE.

GILLASPY, GEORGE,

remarks upon—

report of the committee on incorporations, 112, 156
report of the committee on amendments to the constitution, 604, 607, 608, 609
residence of members of the general assembly, 557, 569, 570
residence of voters, 860
rescinding the resolution fixing the time for adjournment *sine die*, 1013
rules of the convention, 10
salaries of judges, 480, 482, 493, 506
schedule; report upon, 1036, 1037
school fund; disposition of, 849, 993, 994
schools to be free of charge, 968
schools to be taught in each district three months, 824
senators; number and classification of, 520
special committee on right of suffrage, 218
state indebtedness, 261, 262, 268
striking word "white" from the article on militia, 642
striking word "white" from the article on the right of suffrage, 915
suppression of debate upon the subject of the removal of the convention from Iowa City, 35
supreme court; number of judges of, 462
system of common schools, 824, 825, 826 827, 829, 832, 833
term of office of district judges, 472, 473
term of office of governor, 590
university and capitol; location of, 877
vote upon the constitution, 1054
voters; residence of, 860
"white;" striking from article on militia the word, 642
"white;" striking from article on the right of suffrage the word, 915
Governor; age of, 77, 580, 597
approval of bills by, 35, 77, 83, 525 589, 596, 1012
duties of, 77, 583
eligibility to office of, 77, 580, 586, 597
filling vacancy in office of, 77, 587

remarks of—

Mr. Clarke of Henry, 587
Clarke of Johnson, 587
Marvin, 587
Skiff, 587
Warren, 587
first election under the constitution of, 914 995
impeachment of, 83, 527, 551, 574
member of the board of education, 838 845, 939, 951
pardoning power of, 77, 586
residence in state of, 77, 580, 597
salary of, 84, 550, 555, 578
term of office of, 39, 76, 579, 586, 590, 597

remarks of—

Mr. Clarke of Henry, 586
Gillaspy, 590
Hall, 580
Palmer, 580
Skiff, 586
Solomon, 590
Wilson, 586
veto power of, 77, 83, 525, 589, 596

GOWER, ROBERT,

appointed upon the standing committee on the right of suffrage, 21
credentials of, 6
mileage of, 1026
offered resolution of enquiry concerning the school fund, 47
offered resolution of enquiry in relation to banking, 59
offered resolution of enquiry in relation to the location of the seat of government, 88

remarks upon—

allowing students to vote, 665, 869
assumption of school fund by the State, 772
basis of banking, 363
biennial sessions of the legislature, 510, 566
board of education, 731, 757, 950
boundaries of the State, 141, 148
city and county indebtedness, 290, 294
classification and number of senators, 520
common school system, 816, 830
compensation of secretary for distributing the journal, 985
disposition of the school fund, 744, 773, 850, 1001
distribution of the debates, 763, 918, 922
drawing seats in the senate chamber, 81

Digitized by Google

PAGE

first election of supreme judges under the new constitution, 995
furnishing members with slips of debates, 28, 29, 73
furnishing members with the reports of the supreme courts, 88
general banking, 363
giving each editor in the State a copy of the debates, 1027
guaranteeing to the school and university funds all losses in consequence of fraud and mismanagement of State officers, 277
judicial districts—number of, 475
jurisdiction of justices of the peace, 797
Lee county—division of 1000
length of school in each district, 816
limitation of State indebtedness, 261, 267
location of State capitol, 922, 925
location of State university, 770, 922, 925
number of courts, 254, 445
number of judicial districts, 475
number and classification of senators, 520
order of business, 884
printing the constitution and journal, 814, 983
printing the constitution in German, 976
private property for public uses, 205, 206
removal of convention from Iowa City, 16
report of the committee on amendments to the constitution, 615
residence of members of the general assembly, 568
school fund, 744, 772, 850, 1001
senators, number and classification of 520
State bank and branches, 373, 374, 377
State boundaries, 141, 143
State capitol and university; location of, 770, 922, 925
State indebtedness, 261, 267
striking word "white" from the constitution, 680
students not to be allowed to vote, 665, 869
submission of laws to the people, 804
system of common schools, 816, 830
temporary court for the trial of judges and other officers, 457
university and capitol; location of, 770 922, 925
veto power of the governor, 525, 526, 567
"white;" striking from the constitution the word, 680
Grand jurors—resolution of enquiry in relation to empanelling, 48
Grants, to be sealed with the great seal of the State, 77, 588

GRAY, HOSEA W.

appointed upon standing committee upon the executive department, 21
appointed upon the standing committee upon the schedule, 22
appointed chairman of the committee of the whole upon the article upon State debts, 269
appointed upon a committee to examine the new constitution, 1048
called convention to order on the first day of its session, 5
credentials of 6
mileage of, 1026
nominated Mr. E. N. Bates for assistant secretary, 7
offered resolution in relation to the rules of the convention, 9
offered a resolution in relation to manner of drawing seats in the senate chamber, 81
offered resolution that the convention thereafter hold its sessions in the senate chamber, 81
offered a resolution concerning the mileage of members of the convention, 990
offered a resolution to present a chair to the president of the convention, 1022

remarks upon—

city and county indebtedness, 295
giving each editor in the State a copy of the debates, 1027
judges; salaries of, 481, 504, 505, 506
legislative department, 758
lieutenant governor, 591
residence of members of the general assembly, 567
salaries of judges, 481, 504, 505, 506
submission of laws to the people, 801, 803
Gray W., compensation for enrolling the constitution, 1051
Great seal of the State, 77, 588
Greene's reports, compensation of the secretary of state for distributing, 1048
purchase of, 1051

remarks of—

Mr. Clark of Alamakee, 1052, 1053
Clarke of Johnson, 1051, 1052, 1053
Hall, 1052
Harris, 1053
Johnston, 1052, 1053, 1054
Todhunter, 1052, 1053
Traer, 1053, 1054

Digitized by Google

PAGE.

Grievances—right of petition of the people for redress of, 100, 129, 207
Guaranteeing the school and university funds against losses in consequence of the mismanagement or frauds of State officers, 272, 277

remarks of—

Mr. Clarke of Alamakee, 278
Clarke of Henry, 279
Clarke of Johnson, 277, 278
Gower, 277
Hall, 278, 278
Johnston, 279
Skiff, 277, 278
Young, 279

Guardians—resolution of enquiry in relation to the sale of real estate by, 48

H

Habeas corpus—granted when applied for according to law, 123, 141, 202
when to be suspended, 99, 125, 202

HALL, J. C.

appointed upon the committee to draft rules for the convention, 10
appointed upon the committee in relation to the employment of a reporter of the debates of the convention, 11
appointed upon the standing committee upon the judicial department, 22
appointed upon the standing committee upon the militia, 22
appointed upon the standing committee upon education and schools, 22
appointed upon the special committee upon the article on the right of suffrage, 219
appointed upon the special committee upon the article on incorporations, 430
oppointed upon the special committee upon the distribution of the debates, 780
appointed upon the special committee upon the printing of the constitution and journal, 815
appointed upon the committee to examine the new constitution, 1048
credentials of, 6
made minority report from the select committee on the right of suffrage, 649
made minority report from the second committee on education and school lands, 873
made a minority report from the special committee on printing the journal and constitution, 973
mileage of, 1026
moved to furnish members with five slips of the debates, 68
nominated (by Mr. Johnston,) for president of the convention, 6
nominated Willis Conard for first messenger, 7
nominated Willis Conard for second messenger, 7
offered a resolution to furnish members with a list of organized counties, and Parker's sectional map, 26
offered a resolution in relation to resolutions of enquiry, 48
offered a substitute for a resolution in relation to entering reports, resolutions, &c., at length upon the journal, 85
offered a resolution that reports of committees be acted upon in the order of their appointment, 95
offered a resolution for adjournment *sine die* on the fourth of March, 502
offered a resolution that Henry P. Scholtz be employed to translate and print the constitution in the Holland language, 986
offered a resolution concerning the mileage of members of the convention, 980
offered a resolution to furnish each editor in the state with a copy of the debates, 1026
offered a resolution of thanks to the officers of the convention, 1034
offered a protest against the schedule,

remarks upon—

adjourning over till May, 499
age of members of board of education, 937
amendment of the rules, 49
appointment of special committee upon basis of representation, 62
appointment of paper folder to the convention, 95
appointment of special committee on right of suffroge, 218
appointment of special committee on bill of rights, 223, 224, 225
assumption by the state of the school fund, 772

Digitized by Google

PAGE.

banking; provisions in relation to, 346, 348 350, 352, 353 357, 359, 774
basis of representation, 546
biennial sessions of the general assembly, 510, 512, 559
board of education, 600, 721, 723, 725 730, 750, 754 937, 942, 946
boundaries of the state, 141, 142
calling extra session of the general assembly, 584
capitol and university; location of, 877, 931
chancellor of board of education, 770
city and county indebtedness, 51, 52, 292 295, 299, 302, 303 305, 307, 313, 314 324, 327, 328, 332 343, 421, 426, 806
classification and number of senators, 517 518, 521, 522, 523
common law in this state, 213
common schools, 827, 830, 831, 835
common schools to be free of charge, 968 969
compensation of board of education, 956 962, 964
compensation of the chaplain, 760, 761
competency of witnesses and religitests, 172, 174, 176, 178 189, 190, 735
contracts for state indebtedness to be void in certain cases, 275, 282
county seats and boundaries, 535, 538
criminal prosecutions; manner of conducting, 120, 122, 123, 730
delay in the publication of debates, 496
denizens; persons not citizens, other than foreigners, 134, 131, 132 136, 135, 136
disposition of the school fund, 772, 994, 1001
distribution of the constitution in German, 983
distribution of the debates, 918, 919, 920
division of the state into judicial districts, 876
drawing seats in the senate chamber, 82
education of negroes and mulattoes, 62
electing judges of the supreme court, 450 452
election of United States senators, 645
electing members of board of education, 768

PAGE

Exclusive jurisdiction of the United States over territory in Iowa, 210, 212
Expenses of board of education, 952, 965 966
filling temporary vacancies in district courts, 459
first elections under the new constitution, 996
furnishing members with twenty-five daily newspapers, 28, 25
furnishing members with slips of debates, 29, 68, 70, 73
furnishing members with the reports of the supreme court, 88, 89, 91, 92, 93
general banking, 346, 348, 350, 352 353, 357, 359, 774
giving each editor in the state a copy of the debates, 1026, 1029, 1028
Greene's Reports of the Supreme Court; purchase of, 1052
guaranteeing to school and university funds all losses from fraud and mismanagement of state officers, 273, 278
habeas corpus to be granted when lawfully applied for, 125
impairing the right of property, 208
issues of paper money by other than banks, 403
judges of the supreme court; number of, 446, 447, 463, 466
judges of the supreme court; election of, 459
jurisdiction of district courts, 459
jurisdiction of the United States over territory in Iowa, 210, 212
jury trial, 119
Lee county; division of, 1000
length of sessions of board of education, 769
length of schools in each school district, 819, 822, 824
limitation of state indebtedness, 268
limitation of debate, 501
location of public lands by the state, 801
location of the capitol and university, 877 931
location of county seats and boundaries, 535, 538
manner of conducting criminal prosecutions, &c., 120, 122, 123, 730
mileage of members of the convention 987, 989

Digitized by Google

PAGE.

HALL, J. C.

remarks upon—

municipal corporations holding bank stock, 289, 290
negroes and mulattoes; education of, 62
negroes and mulattoes; right to give testimony and hold property, 395
nomination of Willis Conard for messenger, 7, 8
number of copies of debates to be published, 54, 57
number of board of education, 767
number of courts, 227, 229, 246 255, 434, 438
number of judges of supreme court, 446 447, 460, 463, 466
number of classification of senators, 517 518, 521, 522, 523
number and length of sessions of board of education, 769
oath to be taken by members of the convention, 89
offering resolutions of inquiry, 86
order of business, 97, 216, 217, 222 284, 286, 287, 719 720, 878, 879 881, 882, 885
paper folder to the convention, 93
paper money issued by other than banks, 403
personal and general explanations, 1056 1065
political parties upon the subject of of slavery, 687
power of governor to call extra session of the general assembly, 584
preferred creditors of banks, 396, 397 401, 790
printing one hundred copies of the constitution, 11
printing the reports of the special committee on the right of suffrage, 658, 662
printing the journal and constitution, 815 976, 978, 980
private property taken for roads, 128
private property taken for public uses, 206
prohibition of articles of manufacture and sale, 139
publication of the debates, 27, 54, 57
publication of laws in newspapers, 530
punishment of frauds in banking, 392, 393
purchase of Greene's Report of the supreme court, 1052

PAGE.

recommitting report of judiciary committee to said committee, 258
removal of convention from Iowa City, 13, 15, 17, 18
reference of resolutions of enquiry, 46 65, 67
religious tests and competency of witnesses, 172, 174, 176, 178 189, 190, 735
re-organization of courts and judicial districts, 637
report of the committee on the distribution of powers, 37
report of committee on incorporations, 105, 107, 111 146, 155
report of committee on future amendments to the constitution, 615, 616, 617, 621 622, 623, 624, 625 1031, 1032
resolution of inquiry concerning bill of rights, 80
resolution of inquiry concerning judicial department, 81
resolution of inquiry in relation to the election of United States senators, 645
salaries of judges, 480, 481, 483 484, 486, 491 505, 506, 507
salaries of state officers, 555, 556
schedule; report upon, 1037, 1040, 1041
school fund; 772, 994, 1001
schools to be free of charge, 968, 969
senators; number and classification of, 517 518, 521, 522, 523
sessions of board of education, 769, 825
slavery question; action of political parties upon, 687
special committee on basis of representation, 62
special committee on bill of rights, 223 224, 225
special committee on right of suffrage, 218
state boundaries, 141, 142
state bank, 373, 374, 386, 389
state indebtedness, 268
state locating public lands, 801
striking word "white" from the constitution, 687
submission of laws to the people, 802, 804
suppression of debate upon the removal of the convention from Iowa City. 35

Digitized by Google

PAGE.

supreme court judges; number of, 446, 447, 463, 466
supreme court judges; election of, 450, 454
system of common schools, 819, 822, 824, 827, 830, 831, 835, 968, 969
taxes for schools and school houses, 841, 842
temporary vacancies in district courts, 459
term of office of governor and lieutenant governor, 580
trial by jury, 119
United States jurisdiction over territory in Iowa, 210, 212
United States senators; election of, 645
university and state capitol; location of, 877, 931
vacancies in district courts, 459
vote of the people upon calling a convention to revise the constitution, 1031, 1032
"white"; striking from the constitution the word, 687

HARRIS, AMOS,

appointed upon the standing committee upon the right of suffrage, 21
appointed upon the standing committee on education and school lands, 22
appointed upon the committee to examine room for the convention, 22
appointed upon the special committee upon basis of representation, 74
appointed upon the committee to number seats in the senate chamber, 82
appointed upon the special committee upon the bill of rights, 226
appointed chairman of committee of the whole upon the report of the committee on the judicial department, 430
credentials of, 6
made report from the committee to examine room for the convention, 24
made minority report from the special committee on the bill of rights, 852
mileage of, 1026
moved the appointment of a committee upon the subject of the removal of the convention from Iowa City, 5
moved reference of resolution of enquiry in relation to city and county indebtedness to standing committee upon incorporations, 52
moved to furnish members with twenty-six slips of the debates, 68

PAGE

moved to furnish members with twenty slips of the debates, 68
offered a resolution to furnish members with fifteen additional newspapers, 74
offered a resolution for the appointment of a standing committee upon charitable institutions, 96, 118
offered a resolution of thanks to the secretary of the convention, 1028

remarks upon—

adjournment over till May, 500
adjournment *sine die* on the fourth of March, 503
appointment of special committee upon basis of representation, 62, 63
appointment of standing committee upon charitable institutions, 95
appointment of special committee upon the bill of rights, 224
appointment of special committee upon the right of suffrage, 218
basis of general banking, 775
basis of representation, 545, 554, 578
biennial sessions of the general assembly, 511, 513, 564
board of education, 937, 944
boundaries of the state, 141
capitol and university; location of, 926
city and county indebtedness, 291, 301, 306, 313, 329, 425
classification and number of senators, 518, 520, 523
competency of witnesses, and religious tests, 174, 180, 184, 186, 188
conduct of first messenger, 275, 276
contracts for state indebtedness, in certain cases to be void, 274, 281
court of common pleas, 643
criminal prosecutions; manner of conducting, 119, 120, 123, 736, 737
denizens; persons not citizens, other than foreigners, 130, 133, 136
disposition of school fund, 848
distribution of debates, 852
distribution of the constitution in German, 984
districting the state for judicial purposes, 874, 875, 876
drawing seats in senate chamber, 81, 82
exclusive jurisdiction of the United States over territory in Iowa, 210, 212
expenses of board of education, 966
first messenger; conduct of, 275, 276

Digitized by Google

PAGE.

HARRIS, AMOS,

remarks upon—

first election of county officers and district judges under the new constitution, 996

furnish members with twenty-five daily newspapers, 25

furnishing members with slips of debates, 28, 68, 70, 178

furnishing members with the reports of the supreme court, 88, 89, 92

general banking, 775

giving each editor in the state a copy of the debates, 1027

Greene's reports of the supreme court; purchase of 1053

holding night sessions of the convention, 813

instructing committees to report by a certain time, 627

judges of supreme court; number of, 463

judges; salaries of, 479, 483, 484

judicial districts; number of, 509, 632, 634

judicial districts; plan of, 874, 875, 876

jurisdiction of justices of the peace, 811

jurisdiction of the United States over territory in Iowa, 210, 212

length of schools in each school district, 817, 822

lieutenant governor, 594

limitation of debate, 361

limitation of state indebtedness, 269 270, 271

location of state capitol and university, 926

manner of conducting criminal prosecutions, 119, 120, 123, 736, 737

mileage of members of the convention, 988

negroes and mulattoes to be prohibited from coming into the state, 913

negroes and mulattoes; right to hold property and give testimony, 896

natural rights of man, 732, 733

night sessions of the convention, 813

number of courts, 231, 254, 469, 470

number of judges of supreme court, 463

number of judicial districts, 475, 509 632, 634

number and classification of senators, 518, 520, 523

number of senators and representatives, 553, 554

offering resolutions of enquiry, 86

order of business, 97, 98, 217 221, 284, 288, 881

personal and general explanations, 1062

political parties, upon the question of slavery, 905

preferred creditors of banks, 898

printing the reports of the special committee upon the bill of rights, 655

printing of the journal and constitution, 974

private property taken for roads, 126, 128

private property for public uses, 202, 204

prohibition of negroes and mulattoes from coming into the state, 913

prosecuting attorneys, 476

publication of the debates, 41, 45, 55

purchasing Greene's report of the supreme court, 1053

recommitting the report of the judiciary committee to that committee, 258, 259, 509

recommitting the report of the committee on education and school lands, to that committee, 854

reference of resolution of enquiry to judiciary committee, 64

registering of the voters of this state, 869

religious tests and competency of witnesses, 174, 180, 184, 186, 188

removal of the convention from Iowa City, 17, 18

repeal of incorporations, 109, 114 156, 162, 407

report of committee on amendments to the constitution, 604, 606, 613 616, 1031, 1032

residence of voters, 860, 864, 867

salaries of judges, 479, 483, 484

salaries of state officers, 550

schedule; report upon, 1038, 1039 1042, 1042, 1044 1045, 1046, 1048

schools in each school district, 817, 822

school fund, 848

scholars in common schools, 842

senators; number and classification of, 518, 520, 523

senators and representatives; number of, 553, 554

slavery question; political parties upon, 905

special committee on the right of suffrage, 218

special committee on basis of representation, 62, 63

Digitized by Google

PAGE.

special committee on the bill of rights, 224
state bank, 375, 383, 389
state boundaries, 141
state indebtedness, 269, 270, 271
state officers; salaries of, 550
submission of laws to the people, 804
supreme court; number of judges of, 463
time of taking effect of laws, 551
United States; jurisdiction over territory in Iowa, 210, 212
university and state capitol; location of 926
veto power of the governor, 526
voters; registry of, 869
vote of the people upon calling convention to revise the constitution, 1031, 1032
voters; residence of, 860, 864, 867
"white;" striking from the constitution of the word, 905
Hawkins, James, appointed messenger *pro tem*, 5
elected first messenger, 8
conduct of, 275

remarks of—

Mr. Clarke of Johnson, 276
Edwards, 276
Harris, 275, 276
Skiff, 275, 276
Warren, 276
Young, 276
Hawkins, James; rate of *per diem* of, 859
amount of *per diem* of, 1050
Highways; resolution of enquiry in relation to laying out, opening and working, 48
legislature to pass no special laws in relation to, 84, 531
Holding night sessions of the convention, 573, 780, 813

remarks of—

Mr. Clark of Alamakee, 813
Clarke of Henry, 573
Clarke of Johnson, 573, 814
Gillaspy, 813
Harris, 813
Johnston, 813
Palmer, 573
Skiff, 815
Solomon, 573
Todhunter, 813
Wilson, 573, 813, 814
Holland language; printing of the constitution in, 743, 973, 986

PAGE

HOLLINGSWORTH, JEREMIAH.

appointed upon standing committee on the right of suffrage, 21
appointed upon the standing committee on the militia, 22
appointed upon the select committee on the basis of representation, 74
credentials of, 6
mileage of, 1026
House of representatives; age of members of, 83, 515
apportionment of, 84, 540, 1011, 1013

remarks of—

Mr. Clarke of Henry, 1015, 1016
Clarke of Johnson, 1013, 1014, 1015
Marvin, 1016
Skiff, 1011
Traer, 540, 1014, 1015
Wilson, 1015
House of representatives; basis of representation in, 275, 543, 554 557, 579

remarks of—

Mr. Clarke of Henry, 554, 555
Hall, 546
Harris, 545, 554, 578
Marvin, 548
Parvin, 544, 546, 554
Solomon, 546, 549, 577 578, 579
Traer, 543, 554, 578
House of representatives; first election under new constitution of members of, 914, 996
number of members of, 84, 541, 552, 576

remarks of—

Mr. Clarke of Johnson, 542, 553
Harris, 553, 554
Palmer, 541, 542, 553
Solomon, 541, 542
Traer, 541, 553
Wilson, 541, 576
House of representatives; qualification of members of, 83, 515
term of office of members of, 83, 514, 550
term of residence of, 83, 516, 557 567, 1015

remarks of—

Mr. Clarke of Alamakee, 569, 578
Clarke of Henry, 568

Digitized by Google

PAGE.

House of representatives; term of residence of members of—

remarks of—

Clarke of Johnson, 568, 1015
Edwards, 571
Gillaspy, 557, 569, 571
Gower, 568
Gray, 567
Parvin, 571
Solomon, 567, 570, 571, 572
Traer, 557, 568, 572

House of representatives; time of electing members of, 83, 514, 550
to have sole power of impeachment, 83, 527
Howell, J. B.; admitted to the floor of the convention as reporter for the Gate City, 19
Howe, S. S.; communication from, concerning the publication of the debates, 11
admitted to the floor of the convention as the reporter from the Iowa City Republican, 19

I

Idiots and insane persons not allowed to vote, 36, 869
Impeachment; cases of, not pardonable by the governor, 77, 586
cases to be tried before the senate, 83, 527
effect of conviction, 83, 527, 551, 574
house of representatives to have sole power of, 83, 527
officers liable to, 83, 527, 551, 574
temporary court for trial of cases of, 260
Imprisonment for debt; only in cases of fraud, 99, 129, 207
for militia fines, only in time of war, 99 129, 207
Incidental printing of the convention; John Teesdale employed for the, 24
Incorporation of cities and towns; legislature to pass no special laws for, 84, 531
Incorporations; appointment of standing committee upon, 22
appointment of select committee upon, 430

remarks of—

Mr. Clarke of Henry, 429
petition referred to standing committee upon, 24
report from standing committee upon, 96
report from select committee upon, 648
resolutions of inquiry referred to, 38, 39, 52
third reading of article upon, 1022
yeas and nays upon the final passage of the article upon, 1024
Indebtedness of cities and counties—

remarks of—

Mr. Ayres, 291, 292, 297
Bunker, 306
Clark of Alamakee, 51, 318, 324, 418 421, 423, 425, 426 427, 777, 808
Clarke of Henry, 52, 301, 325, 343 344, 416, 805, 805
Clarke of Johnson, 50, 51, 52, 304, 305 309, 336, 344, 415 417, 418, 421, 425 425, 426, 427, 776 805
Edwards, 293, 295, 300, 301 304, 306, 316, 330 335, 421, 492, 423 425, 776, 806, 812
Ells, 322
Emerson, 51, 297, 315, 316 317, 318, 812
Gibson, 424, 810
Gillaspy, 294, 307, 328, 416 421, 777, 778, 805
Gower, 290, 294
Gray, 295
Hall, 51, 52, 292, 295, 299 302, 303, 305, 307 313, 314, 324, 327 328, 332, 343, 421 426, 806
Harris, 291, 301, 306 313, 329, 425
Johnston, 51, 291, 302, 342 343, 426, 776
Marvin, 290, 297, 312, 423
Palmer, 298
Parvin, 305, 307, 314, 425
Patterson, 297
Peters, 317, 318, 417, 805
Price, 333
Scott, 313, 422
Skiff, 290, 311, 415 425, 427, 808
Solomon, 311, 776, 778
Traer, 421, 775, 776, 777
Warren, 51

Digitized by Google

PAGE.

Wilson, 309, 327, 328 416; 422
Young, 421
Indebtedness of the State—provision in relation to limitation of, 260, 276

remarks of—

Mr. Bunker, 271
Clarke of Henry, 266, 267, 268, 272
Clarke of Johnson, 267, 272, 277
Edwards, 265
Gibson, 263, 270
Gillaspy, 261, 262, 268
Gower, 261, 267
Hall, 268
Harris, 269, 270, 227
Johnston, 267
Palmer, 270, 272, 277
Parvin, 261, 264, 265, 271
Patterson, 268
Scott, 271
Skiff, 265
Solomon, 271
Todhunter, 272
Traer, 262, 264, 265, 268 270
Wilson, 261, 263, 264, 265 266
Winchester, 265, 270
Infamous crimes—disabilities of persons convicted of, 180, 869
Insane persons and idiots not to be allowed to vote, 36, 869
Instructing committees to report by a certain time, 626

remarks of—

Mr. Clarke of Henry, 627
Edwards, 627
Harris, 627
Johnston, 627
Palmer, 627
Parvin, 627
Wilson, 627
Insurrection—State to have power to contract debts to suppress, 54, 273, 279
Invasion—State to have power to contract debts to repel, 52, 278, 279
suspension of the writ of habeas corpus in time of, 99, 125, 202
Involuntary servitude, except for crime, prohibited in the State, 100, 138, 209

PAGE

Iowa City—location of the State university at, 40, 47, 648, 770 801, 811, 824, 838 877, 922, 1017

remarks of—

Mr. Bunker, 934
Clarke of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 838, 926
Edwards, 877, 930
Gibson, 771, 840
Gillaspy, 877
Gower, 770, 922, 925
Hall, 877, 931
Harris, 926
Johnston, 801
Palmer, 877, 938
Skiff, 889
Solomon, 771
Todhunter, 816, 317, 822
Traer, 1017
Winchester, 801, 889, 1017
Iowa City; removal of convention from, 5 12, 22

remarks of—

Mr. Ayres, 7
Bunker, 14
Clark of Alamakee, 17
Clarke of Henry, 15, 17
Clarke of Johnson, 11, 12, 14, 16, 18
Edwards, 18, 20
Ells, 11, 12, 13
Emerson, 17, 18
Gillaspy, 18
Gower, 16
Hall, 13, 15, 17, 18
Harris, 17, 18
Johnston, 11
Parvin, 13, 17
Patterson, 16, 17
Todhunter, 12
Traer, 12, 16
Wilson, 17, 18

Iowa City Republican, admission of reporter of, upon the floor of the convention, 19
Iowa City Republican, Mr. Edwards moved to subscribe for each member of the convention five copies of, 23
Issuing of paper money, resolution in relation to, 3 9

Digitized by Google

PAGE.

JOHNSTON, EDWARD.

appointed upon committee to draft the rules of the convention, 10
appointed upon the standing committee upon the distribution of powers, and the legislative department, 21
appointed upon the standing committee upon incorporations, 22
appointed upon the standing committee on militia, 74
appointed chairman of the committee of the whole upon the article upon the judicial department, 227
appointed upon the committee on accounts and expenditures, 743
appointed upon the select committee upon the school fund, 781
credentials of, 6
made a report from the committee on accounts and expenditures, 758
made a report from the committee on accounts and expenditures concerning the mileage of members, 1025
made a report from the committee on accounts and expenditures upon the cost of newspapers furnished to members, 1026
mileage of, 1026
nominated J. C. Hall for president of the convention, 6
offered a resolution of enquiry concerning the article upon the legislative department, 30
offered a resolution of enquiry concerning the article on education and school lands, 39
offered a resolution concerning the *per diem* of the president of the convention, 760
offered a resolution of thanks to the president of the convention, 1022
offered a resolution for the appointment of a select committee upon the school fund, 78

remarks upon—

age of persons to serve in the militia, 641
appointment of the standing committees of the convention, 19
appointment of the special committee upon the basis of representation, 62
appointment of the special committee upon the bill of rights, 223, 226
appointment of the committee on accounts and expenditures, 741

PAGE.

banking under general laws, 347
board of education, 724, 725, 766
city and county indebtedness, 51, 291, 302 342, 343, 426, 776
classification and number of senators, 523
compensation of enrolling clerk, 1055
competency of witnesses, and religious tests, 200
continuing in office present legislature and State officers, 646
criminal prosecutions; manner of conducting, 201
disposition of the school fund, 846, 847, 850
furnishing members with newspapers, 10
furnishing members with reports of the supreme court, 94
general banking, 347
Greene's reports of the supreme court; purchase of, 1052, 1053, 1054
guaranteeing school and university funds against losses in consequence of fraud or mismanagement of State officers, 279
holding night sessions, 813
indebtedness of the State, 267
instructing committees to report by a certain time, 627
Lee county; division of, 999, 1000, 1036
limitation of debate, 362, 502
limitation of State indebtedness, 267
location of State university, 801
mileage of members of the convention, 989
manner of conducting the business of the convention, 88
manner of conducting criminal prosecutions, 201
militia; age of persons to serve in, 641
night sessions of the convention, 813
number of courts, 439, 444
number and classification of senators, 523
number and length of sessions of the board of education, 769
oath to be taken by members of the convention, 9
offering resolutions of enquiry, 31, 40, 46 86
officers of the board of education, 770
order of busines, 216, 329, 717
personal and general explanation, 1061
postage of the convention, 1049, 1055
postponing the report of the committee upon the legislative department, 219
printing the reports of standing committees, 87

Digitized by Google

PAGE.

printing the reports of the special committee on the bill of rights, 656
printing the constitution in German, 743
publication of the debates, 44, 54, 58
purchasing Greene's reports of the supreme court, 1052, 1053, 1054
recommitting the report of the judiciary committee to said committee, 256, 257
religious tests, and competency of witnesses, 200
removal of the convention from Iowa City, 11
repeal of banking laws, 406
retaining present legislature and state officers in office, 646
salaries of state officers, 578
schedule; report upon, 1037, 1047
school fund; disposition of, 846, 847, 850
senators; number and classification of, 523
sessions of the board of education, 769
special committee upon the basis of representation 62
special committee on the bill of rights, 223
226
state indebtedness, limitation of, 267
state university; location of, 801
suppression of debate upon the subject of the removal of the convention from Iowa City, 35
term of the sessions of the board of education, 969
university; location of, 801
vote upon the constitution, 1055
Journal of the convention; compensation of the secretary for enrolling, 877
enrolled copy to be deposited in the office of the secretary of state, 758
to be examined and corrected by the president of the convention, 20
resolution concerning the placing reports, resolutions, &c., at large upon, 64, 85
resolution concerning the printing and distributing of, 742, 814, 972

remarks of—

Mr. Bunker, 978, 979
Clark of Alamakee, 973, 974, 981
Clarke of Henry, 975, 981, 982
Clarke of Johnson, 814, 815, 973
974, 975, 979
Edwards, 974, 976, 977
Gower, 814, 983
Hall, 815, 976, 978, 980
Harris, 974
Marvin, 814, 982
Parvin, 742, 814, 974
975, 977, 979
Skiff, 975, 976, 978
Solomon, 983
Traer, 980
Wilson, 973, 974
975, 977, 978

Judges of the district courts; first election under the new constitution of, 914, 996
impeachment of, 83, 527, 551, 574
manner of electing, 115, 259, 455
salaries of, 84, 116, 259, 478
504, 550, 555, 578

remarks of—

Mr. Clark of Alamakee, 480, 489
Clarke of Henry, 480, 485, 489
491, 493, 505, 507
Clarke of Johnson, 479, 481. 485, 487
489, 491, 493, 506
Day, 488, 504
Edwards, 488
Ells, 487
Emerson, 486
Gibson, 481
Gillaspy, 480, 482, 593, 506
Gray, 181, 404, 505, 506
Hall, 480. 481, 483
484, 486, 491
505, 506, 507
Harris, 479, 483, 484
Marvin, 482, 483
Patterson, 505
Peters, 485, 487
Solomon, 506
Traer, 479, 483
Wilson, 479, 484, 490
491, 493, 506
Winchester, 481

Judges of the district courts; term of office of, 115, 259, 457
trial of 116, 260, 457
vacancies in office of, 116, 260
Judges of the supreme court; classification of, 115, 259, 449, 472
first election under the new constitution of, 914, 995, 996
impeachment of, 83, 527, 551, 574
jurisdiction of, 116, 259, 448
manner of electing, 115, 259, 449
number of, 115, 259, 446, 462

Digitized by Google

PAGE.

remarks of—

Mr. Bunker, 464
Clark of Alamakee, 463
Clarke of Henry, 448, 463, 466
Clarke of Johnson, 447, 448, 462, 464
Gillaspy, 462
Hall, 446, 447, 463, 466
Harris, 463
Palmer, 447, 448
Traer, 462
Wilson, 449, 451

Judges of the supreme court; reporter of, 116, 260
salaries of, 84, 116, 259, 478 504, 550, 555, 578

remarks of—

Mr. Clark of Alamakee, 480, 489
Clarke of Henry, 480, 485, 489 491, 493, 505, 507
Clarke of Johnson, 479, 481, 485, 487 489, 491, 493, 506
Day, 488, 504
Edwards, 488
Ells, 487
Emerson, 486
Gibson, 481
Gillaspy, 480, 482, 493, 506
Gray, 481, 504, 505, 506
Hall, 480, 481, 483 484, 486, 491 505, 506, 507
Harris, 479, 483, 484
Marvin, 482, 483
Patterson, 505
Peters, 485, 487
Solomon, 506
Traer, 479, 483
Wilson, 479, 484, 490, 491 493, 506
Winchester, 481

Judges of the supreme court; term of office of, 115, 259, 449, 471
trial of judges of, 116, 260, 457

Judicial department; appointment of standing committee upon, 10, 19, 22
majority report from standing committee upon, 115
minority report from standing committee upon, 116
recommitting reports to standing committees upon, 256, 509

PAGE

remarks of—

Mr. Clarke of Henry, 256, 257, 258
Clarke of Johnston, 509
Gillaspy, 257
Hall, 257
Harris, 258, 259, 509
Johnston, 256, 257
Parvin, 256
Traer, 258

judicial department; reference of sections eleven and thirteen of the bill of rights to standing committees upon, 140
report of committee upon, 140
resolutions of enquiry referred to committee upon, 33, 38, 46, 47, 81, 82
second majority report from standing committee upon, 259
second minority report from standing committee upon, 260
third reading of article upon, 1019
yeas and nays upon final passage of article upon, 1020

Judicial districts; first general assembly under the new constitution to divide the State into, 915, 998
number of, 115, 259, 450, 475 508, 628

remarks of—

Mr. Clarke of Alamakee, 629, 630
Clarke of Henry, 629, 633
Clarke of Johnson, 509, 629
Edwards, 631
Gibson, 634
Gower, 475
Harris, 475, 509, 632, 634
Parvin, 630
Patterson, 635
Price, 629
Skiff, 631
Wilson, 634
Winchester, 633
Young, 632, 634

Judicial districts; plan of, 874
re-organization of, 116, 260, 460, 507 628

remarks of—

Mr. Clarke of Henry, 638
Clarke of Johnson, 460, 507, 635, 636
Hall, 637
Palmer, 460
Wilson, 507, 636

Digitized by Google

PAGE.

Judicial districts: resolution calling for information in relation to, 40
Jurisdiction of justices of the peace, 48, 124 643, 795, 810

remarks of—

Mr. Bunker, 797
Clarke of Alamakee, 795, 796
Clarke of Johnson, 125, 810
Gibson, 795, 797, 798
Gillaspy, 796, 798
Gower, 797
Harris, 811
Palmer, 124
Skiff, 795
Jurisdiction of the courts, 116, 259, 455
of the United States over territory in the State of Iowa, 138, 209

remarks of—

Mr. Emerson, 210, 211
Hall, 210, 212
Harris, 210, 212
Peters, 209, 213
Solomon, 210, 211
Wilson, 209, 210, 211, 212
Winchester, 212
Jurors; resolution of enquiry in relation to empaneling, 48
Jury trial; provision in relation to, 64, 99 119, 201

remarks of—

Mr. Clarke of Alamakee, 119
Clarke of Johnson, 119
Hall, 119
Scott, 119
Todhunter, 119
Justices of the peace; resolution of enquiry in relation to practice in courts of, 48
jurisdiction of, 48, 124, 140, 201 643, 795, 810

remarks of—

Mr. Bunker, 797
Clarke of Alamakee, 795, 796
Clarke of Johnson, 125, 810
Gibson, 795, 797, 798
Gillaspy, 796, 798
Gower, 797
Harris, 811
Palmer, 124
Skiff, 795

PAGE

K

Keokuk Times; reporter of, admitted to the floor of the convention, 19
Kynett, Rev. Alpheus, appointed chaplain of the convention, 24
compensation of, 760

remarks of—

Mr. Clarke of Johnson, 760, 761
Hall, 760, 761
Solomon, 760
Todhunter, 760, 761

L

Lacossit, H. B.; admitted to the floor of the convention as the reporter of the "North West," 23
Lands; leases of limited to twenty years, 213
location by the State of public, 648, 801 811

remarks of—

Mr. Clark of Alamakee, 811
Clarke of Johnson, 801
Hall, 801
Price, 801
Lands, school. (See school lands.)
Laws; character of banking, 96, 344, 362 419, 775

remarks of—

Mr. Clarke of Alamakee, 370, 371, 386
Clarke of Henry, 347, 350, 353, 358 359, 364, 368, 370 779, 789
Clarke of Johnson, 346, 791, 792
Edwards, 344, 346, 351, 789
Ells, 347, 348
Gibson, 354
Gillaspy, 350, 363, 794
Gower, 363
Hall, 346, 348, 350, 352, 353, 357, 359, 794
Harris, 775
Marvin, 788
Palmer, 372, 786, 787
Parvin, 347, 354, 785, 788
Peters, 357
Skiff, 346
Solomon, 394, 791
Traer, 787, 788, 789
Wilson, 355, 358, 363, 370 775, 789
Young, 370

Digitized by Google

PAGE.

Laws; repeal of banking, 97, 405, 649, 772

remarks of—

Mr. Clarke, of Henry, 404, 405, 773, 774
Clarke of Johnson, 404, 773
Johnston, 406
Palmer, 405
Skiff, 404
Wilson, 404, 405, 406

Laws for establishing corporations; repeal of, 104, 143, 407, 420, 629

remarks of—

Mr. Bunker, 165
Clark of Alamakee, 106, 107, 111, 113 114, 156, 401
Clarke of Henry, 104, 110, 111, 115 152, 154, 165, 168, 412
Clarke of Johnson, 105, 108, 145, 158 160, 161, 408, 409
Day, 406
Edwards, 150
Harris, 109, 114, 156, 162, 407
Palmer, 104, 105, 171, 411, 412
Parvin, 109
Peters, 144, 145
Price, 151
Scott, 104
Skiff, 164, 168, 407, 408
Solomon, 161
Traer, 145, 409
Wilson, 105, 106, 107, 111 114, 153, 154, 155 160, 161, 407, 408, 409
Winchester, 158

Laws; submission to the people of, 53, 97 140, 273, 279, 407 420, 556, 749, 773 801, 811

remarks of—

Mr. Clark of Alamakee, 773
Clarke of Henry, 802
Gower, 804
Gray, 801, 803
Hall, 802, 804
Harris, 804
Marvin, 802
Parvin, 773
Skiff, 802, 803, 804
Wilson, 804

Laws; to remain in force under the new constitution, 914, 994
time of taking effect of, 84, 529, 551

remarks of—

Mr. Hall, 330
Harris, 551
Palmer, 530
Wilson, 530

Laws to be of uniform operation, 84, 99 118, 200, 531, 551, 575

remarks of—

Mr, Clarke of Johnson, 532
Edwards, 531
Palmer, 532
Parvin, 532

Lay on the table, motion to; to be decided without debate, 21
effect of motion to, 25

Leases of land to be limited to twenty years, 213

Leave of absence granted to Mr. Cotton, 87
Traer, 276
Winchester, 1034

Lee, Judge F. H., administered the oath to members of the convention, 12

Lee county; provision in relation to the division of, 999, 1036

remarks of—

Mr. Bunker, 1000
Clarke of Henry, 1000
Edwards, 999, 1036
Gillaspy, 999
Gower, 1000
Hall, 1000
Johnston, 999, 1000, 1036
Parvin, 990
Patterson, 999
Todhunter, 1036
Traer, 1000
Wilson, 999, 1000

Legislative department; appointment of standing committee upon, 10, 19, 21
consideration of report of standing committee upon, 509, 758
petition referred to standing committee upon, 79
report from standing committee upon, 82
resolutions of inquiry referred to standing committee upon, 23, 33, 35, 38
third reading of article upon, 1008
yeas and nays upon the final passage of the article upon, 1017

Legislature; special sessions of, 39, 77, 5

Digitized by Google

PAGE.

Length of school in each school district, 78, 770, 816, 825

remarks of—

Mr. Clark of Alamakee, 818, 821, 822
Ells, 818
Gibson, 770, 816, 823
Gillaspy, 824
Gower, 816
Hall, 819, 822, 824
Harris, 817, 822
Marvin, 819
Palmer, 823
Scott, 817
Skiff, 816, 818
Todhunter, 816, 817, 822
Traer, 819

Length of sessions of board of education, 78, 768, 816, 938

remarks of—

Mr. Clarke of Johnson, 825
Hall, 769
Johnston, 769
Marvin, 768, 769
Skiff, 769
Todhunter, 769

Liabilities of stockholders in banks, 96, 363, 419, 785

remarks of—

Mr. Clarke of Alamakee, 370, 371, 786
Clarke of Henry, 364, 368, 370, 789
Clarke of Johnson, 363, 364, 366, 789
Emerson, 786
Marvin, 788
Palmer, 372, 786, 787
Parvin, 785, 788
Scott, 785
Traer, 787, 788, 789
Wilson, 363, 370

Libel; provision in relation to prosecution for, 99, 118, 201

Lieutenant Governor; age of, 77, 580, 597

remarks of—

Mr. Clarke of Alamakee, 582
Clarke of Henry, 581
Gillaspy, 581, 582
Marvin, 581
Palmer, 580, 582
Parvin, 582
Scott, 580, 581
Skiff, 580
Solomon, 580

PAGE

Lieutenant Governor; compensation of, 597

remarks of—

Mr. Clarke of Henry, 597, 598
Palmer, 597
Scott, 598
Traer, 597, 598

Lieutenant Governor; creation of office of, 39, 77, 580, 586, 591

remarks of—

Mr. Clarke of Alamakee, 594
Clarke of Henry, 591, 595
Clarke of Johnson, 592
Gibson, 595
Gray, 591
Harris, 594
Wilson, 593, 595

Lieutenant Governor; eligibility to office of, 77, 580, 586, 597

first election under the new constitution of, 914, 995

to be president of the senate, 77, 588, 597

residence in the state of, 77, 580, 597

term of office of, 77, 580, 586, 597

vacancy in the office of, 77, 588, 597

when to act as governor, 77, 587, 597

Limitation of debate, 360, 361, 500

remarks of—

Mr. Clark of Alamakee, 501
Clarke of Henry, 362, 500, 501
Edwards, 500
Gillaspy, 501
Hall, 501
Harris, 361
Johnston, 362, 501
Marvin, 361
Palmer, 501
Scott, 501
Skiff, 361, 362
Traer, 501
Wilson, 361, 362, 500
Winchester, 501

Limitation of state indebtedness; provision in relation to, 260, 276

remarks of—

Mr. Bunker, 271
Clarke of Henry, 266, 267, 268, 272
Clarke of Johnson, 267, 272, 277
Edwards, 268
Gibson, 263, 270
Gillaspy, 261, 262, 268
Gower, 261, 267
Hall, 268

Digitized by Google

PAGE.

Limitation of state indebtedness; provision in relation to, 260, 261
remarks of—
Harris, 269, 270, 271
Johnston, 267
Palmer, 270, 272, 277
Parvin, 261, 264, 265, 272
Patterson, 268
Scott, 271
Skiff, 265
Solomon, 271
Todhunter, 272
Traer, 262, 264, 265, 568, 270
Wilson, 261, 263, 264, 265, 266
Winchester, 265, 270
Liquors; prohibition of intoxicating, 139 209, 647, 812
Location of the capitol of the state, 40, 648 770, 801, 811 838, 877, 922, 1017
remarks of—
Mr. Bunker, 917
Clark of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 926
Edwards, 877, 930
Gibson, 771, 840
Gillaspy, 877
Gower, 922, 925
Hall, 877, 931
Harris, 926
Palmer, 877, 933
Skiff, 839
Traer, 1017
Location of county seats and boundaries, 45, 532, 551, 556
remarks of—
Mr. Clark of Alamakee, 533, 536, 539, 552
Clarke of Henry, 535, 539, 552
Clarke of Johnson, 552
Gillaspy, 534
Hall, 535, 538
Marvin, 532, 533, 535, 552
Peters, 556
Scott, 533
Solomon, 534
Traer, 533, 534, 537
Location of public lands by the state, 698 801, 811
remarks of—
Mr. Clark of Alamakee, 811
Clarke of Johnson, 801
Hall, 801
Price, 801

PAGE.

Location of state university, 40, 47, 698 770, 801, 811, 824 838, 877, 922, 1017
remarks of—
Mr. Bunker, 934
Clark of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 838, 926
Edwards, 877, 930
Gibson, 771, 840
Gillaspy, 877
Gower, 770, 922, 925
Hall, 877, 931
Harris, 926
Johnston, 801
Palmer, 877, 933
Skiff, 839
Solomon, 771
Todhunter, 816, 817, 822
Traer, 1017
Winchester, 801, 839, 1017
Lord, W. Blair; appointed reporter of the debates of the convention, 12
appointed to superintend the publication of, and to index the debates, 761, 921
resolution of thanks to, 1034
Losses to school and university fund in consequence of the fraud or mismanagement of state officers, 272, 277
remarks of—
Mr. Clark of Alamakee, 278
Clarke of Henry, 279
Clarke of Johnson, 277, 278
Gower, 277
Hall, 273, 278
Johnston, 279
Skiff, 277, 278
Young, 279
Lotteries; not to be authorized in this state, 84, 530
Lottery tickets; not to be authorized in this state, 84, 530
Lucrative offices; holders of not eligible to other offices, 83
Luse, A. P. & Co.; appointed printers of the debates, 26
appointed to forward slips to members after adjournment, 1003
contract for printing the debates with, 26

Digitized by Google

PAGE.

M

Magistrates; jurisdiction of, 48, 124, 140 201, 795, 810

remarks of—

Mr. Bunker, 797
Clark of Alamakee, 795, 796
Clarke of Johnson, 125, 810
Gibson, 795, 797, 798
Gillaspy, 796, 798
Gower, 797,
Harris, 811
Palmer, 124
Skiff, 795

Mahin, John; appointed to print the journal of the convention, 742, 814, 973

compensation for printing the journal of the convention, 1050

Mail matter to be forwarded to members after the adjournment, 1012

Mailing slips of the debates to members of the convention after adjournment, 1003

Making common schools free of charge, 968

remarks of—

Mr. Clarke, of Henry, 970
Ells, 968, 971
Gillaspy, 968
Marvin, 968, 969
Palmer, 971
Skiff, 969
Traer, 970, 971
Wilson, 969

Manner of conducting the business of the convention, 10, 48, 64, 95

remarks of—

Mr. Clarke of Henry, 38
Gibson, 38
Johnston, 38
Patterson, 38
Traer, 37
Wilson, 38

Manner of conducting criminal prosecutions, &c., 64, 99, 119, 201, 736

remarks of—

Mr. Clark of Alamakee, 120, 122, 737
Clarke of Henry, 121, 123, 124, 201, 736
Hall, 120, 122, 123, 730
Harris, 119, 120, 123, 736, 737
Johnston, 201
Palmer, 122
Parvin, 121, 122
Skiff, 201
Solomon, 122
Todhunter, 121, 123
Wilson, 121, 124, 738, 740

Maquoketa Excelsior; reporter of ad- admitted to the floor of the convention, 28

Marine service of the United States; persons in, not allowed to vote in this state, unless citizens, 86, 869

MARVIN, A. H.

appointed on the standing committee on the executive department, 21

appointed upon the standing committee upon education and school lands, 22

appointed upon the special committee upon the right of suffrage, 219

credentials of, 6

Made report from the standing committtee on education and school lands, 78

Made a second report from standing committee on education and school lands, 871

mileage of, 1026

offered a resolution to increase the number of slips of debates to be furnished to members, 179

remarks upon—

adjournment over till May, 499

age of governor and lieutenant, governor, 581

allowing students to vote, 665

appointment of special committee on the bill of rights, 226

apportionment of representation, 1016

basis of representation, 548

biennial sessions of the general assembly, 512, 566

board of education, 600, 756, 949, 950

city and county indebtedness, 290, 297, 312, 423

common school system, 825, 827, 837

common schools to be free of charge, 968 969

compensation of board of education, 964

compensation of the secretary of state for distributing Greene's reports, 1048

contracts for state indebtedness in certain cases to be void, 233

county seats and boundaries, 532, 533 535, 552

denizens; persons other than foreigners not citizens, 132

disposition of the school fund, 1001

distribution of debates, 765, 853, 918, 921

Digitized by Google

PAGE.

MARVIN, A. H.

remarks upon—

distribution of the rules and regulations of the board of education, 938
eligibility to the general assembly, 528
filling vacancies in the office of governor, 587
furnishing members with "constitutions of the states," 20
furnishing members with slips of debates, 179
general assembly; time of meeting of, 515
judges; salaries of, 482, 483,
jurisdiction of justices of the peace, 797
liability of stockholders in banks, 788
limitation of debate, 361
locating county seats and boundaries, 532, 533, 535, 552
making common schools free of charge, 968, 969
number and length of sessions of board of education, 768, 769
oath to be taken by the members of the convention, 9
offering resolutions of enquiry, 33
order of business, 286
pardoning power of the governor, 587
postage of the convention, 1041
preferred creditors of banks, 398. 402, 790
printing the constitution and journal, 814
982
private property taken for public uses, 206
recommitting the report of the committee upon education and school lands to that committee, 855
report of committee upon future amendments to the constitution, 619, 620, 1031
residence of voters, 867
rules and regulations of the board of education, 938
salaries of judges, 482, 483
school fund; distribution of, 1001
schools in each school district, 819
schools to be free of charge, 968, 969
sessions of the board of education, 768, 769
special committee upon the bill of rights, 226
stockholders in banks, 788
striking the word white from the constitution, 672, 676
students allowed to vote, 665
submission of laws to the people, 802
system of common schools, 825, 827, 837
term of school in each school district, 819
term of session of the board of education, 768, 769
time of meeting of the general assembly, 515
vacancies in the office of governor, 587
veto power of the governor, 525
vote of the people upon calling a convention to revise the constitution, 1031
voters; residence of, 867
"white;" striking from the constitution the word, 672, 676
May; resolution that the convention adjourn over till, 496

remarks of—

Mr. Gillaspy, 498, 499
Hall, 499
Harris, 500
Marvin, 499
Peters, 496
Wilson, 498, 499
Members of Congress; first election under the new constitution of, 914, 996
Memorial from citizens of Delaware county in relation to banking, 24
in relation to township and county officers, 24
in relation to laws concerning the observance of the Christian Sabbath, 47, 361
in relation to the general assembly, 79
in relation to the prohibition of intoxicating liquors, 115, 647
in relation to persons of color, 115, 216, 395
in relation to the size of counties, 216
Merritt, J. H., appointed fireman *pro tem*, 5
elected fireman, 7
rate of *per diem* of, 759
amount of *per diem* of, 1050
Messages from Governor to the general assembly, 77, 585
Messenger, first; James Hawkins appointed *pro tem*. 5
James Hawkins elected; 8
rate of *per diem* of, 598
amount of *per diem* of, 1050
Willis Conard nominated for, 7
Messenger, second; George Clearman, appointed *pro tem*, 5
George Clearman elected, 8
rate of *per diem* of, 759
amount of *per diem* of, 1050
Willis Conard nominated for, 8

Digitized by Google

PAGE

Mileage; of members of the board of education, 79, 772, 825, 953
of members of the general assembly, 84 528, 551
of members of the convention, 986, 1003 1025

remarks of—

Mr. Clark of Alamakee, 986, 987, 988, 989
Clarke of Henry, 989
Day, 986
Edwards, 986, 987, 989
Gillaspy, 986, 987
Hall, 987, 989
Harris, 988
Johnston, 989
Solomon, 989
Warren, 987
Wilson, 986

Military service of the United States; persons engaged in not allowed to vote unless they are citizens, 36, 869

Military service; electors not required on days of election to perform, 36, 860

Military to be subordinate to the civil power, 98, 126, 202

Militia; appointment of committee upon, 10 19, 22
report from committee upon, 628
third reading of article upon, 1020
final passage of article upon, 1020
governor to be commander-in-chief of, 77, 783

Militia fines; to be devoted to the use of schools, 78, 968
no person to be imprisoned in time of peace for, 99, 129, 207

Militia; age of persons to serve in, 628, 640
persons serving in to elect commissioned officers of, 628, 640
persons conscientiously opposed to serving, to be exempt upon payment of a fine, 628, 640
striking the word "white" from the article upon, 641

remarks of—

Mr. Clarke of Henry, 641, 642
Gillaspy, 642
Scott, 642
Winchester, 642

Mills county; to be incorporated for the present in the sixth judicial district, 1000

Minority reports; from the committee on amendments to the constitution, 80
from the committee on education and school lands, 79, 873
from the committee on the judicial department, 116, 260
from the select committee on the bill of rights, 652
from the select committee on the right of suffrage, 649
from the special committee on printing the journal and constitution, 973

Minors; resolution of inquiry in relation to the sale of real estate belonging to, 48

Miscellaneous subjects; appointment of standing committee upon, 10, 19, 22
petition in relation to the observance of the Christian Sabbath referred to the committee upon, 361
petition in relation to the prohibition of the manufacture and sale of intoxicating liquors referred to the committee upon, 648
petition in relation to the size of counties referred to the committee upon, 216
provision in relation to the change of state boundaries referred to the committee upon, 143
resolution of inquiry in relation to the permanent location of the capitol and university referred to the committee upon, 88
report of committee upon, 648
third reading of article upon, 1033
yeas and nays upon final passage of article upon, 1034

Misdemeanors; resolution of inquiry in relation to the punishment of crimes and, 48

Moriarty, P.; admitted to the floor of the convention as the reporter of the Maquoketa Excelsior, 23

Mulattoes and negroes; education of, 62, 824

remarks of—

Mr. Clarke of Henry, 828, 829
Clarke of Johnson, 826, 827, 834
Edwards, 834
Gillaspy, 825, 826, 827, 832
Hall, 62, 827, 835
Marvin, 827
Parvin, 62, 835
Skiff, 828
Solomon, 832
Wilson, 832

Digitized by Google

PAGE.

Mulattoes and negroes; to be prohibited from coming into the state, 913
right to hold property in this state, 129, 130

remarks of—

Mr. Clarke of Henry, 129
Clarke of Johnson, 131, 134, 137
Gillaspy, 130, 131, 132, 133
Hall, 130, 131, 132
134, 135, 136, 395
Harris, 130, 133, 136
Marvin, 132
Parvin, 395
Skiff, 134
Todhunter, 136
Traer, 132, 136
Wilson, 135, 136

Mulattoes and negroes; right to give tes- in this state, 99, 172, 179, 395, 651, 734

remarks of—

Mr. Bunker, 199
Clark of Alamakee, 191
Clarke of Henry, 130, 131, 132
134, 136, 137
Clarke of Johnson, 178, 196, 734, 735
Edwards, 187, 188, 190
Ells, 175
Gibson, 195
Gillaspy, 172, 174, 176, 184
185, 186, 188, 195
Hall, 172, 174, 176, 178
189, 190, 395, 735
Harris, 174, 180, 184, 186, 188
Johnston, 200
Palmer, 735
Parvin, 176, 395
Peters, 198, 199
Scott, 735
Skiff, 172
Wilson, 180, 185, 186, 194

Mulattoes and negroes; serving in the militia of this state, 641

remarks of—

Mr. Clarke of Henry, 641, 642
Gillaspy, 642
Scott, 641
Winchester, 642

Mulattoes and negroes; allowing them the right to vote in this state, 649, 664, 888, 915

PAGE

remarks of—

Mr. Bunker, 908, 909
Clark of Alamakee, 709
Clarke of Henry, 667, 676
Clarke of Johnson, 656, 666, 675, 680, 888
Edwards, 680, 691
Ells, 672, 675, 691, 905
Gibson, 694
Gillaspy, 915
Gower, 680
Hall, 687
Harris, 905
Marvin, 672, 676
Parvin, 699, 912
Peters, 680, 915
Scott, 641
Skiff, 664, 665
Winchester, 915

Municipal and political corporations; not to hold bank stock, 96, 289, 419, 776
indebtedness of, 34, 47, 94, 96, 290, 329
415, 421, 776, 805, 819

remarks of—

Mr. Ayres, 291, 292, 297
Bunker, 306
Clark of Alamakee, 51, 318, 324, 418
421, 423, 425, 426
427, 777, 808
Clarke of Henry, 52, 301, 325, 343
344, 418, 805, 806
Clarke of Johnson, 50, 51, 52, 304, 305
309, 336, 344, 415
417, 418, 421, 424
425, 426, 427, 776
805
Edwards, 293, 295, 300, 301
304, 306, 316, 330
335, 421, 422, 428
425, 776, 806, 813
Ells, 322
Emerson, 51, 297, 315, 316
317, 318, 813
Gibson, 424, 810
Gillaspy, 294, 307, 328, 416
421, 777, 778, 805
Gower, 290, 294
Gray, 295
Hall, 51, 52, 292, 295, 299
302, 303, 305, 307
313, 314, 324, 327
328, 832, 343, 421
426, 806

Digitized by Google

PAGE.

Harris, 291, 301, 306 313, 329, 425
Johnston, 51, 291, 302, 342 343, 426, 776
Marvin, 290, 297, 312, 423
Palmer, 298
Parvin, 305, 307, 314, 425
Patterson, 297
Peters, 317, 318, 417, 805
Price, 335
Scott, 313, 422
Skiff, 290, 311, 415 425, 427, 808
Solomon, 311, 776, 778
Traer, 421, 775, 776, 777
Warren, 51
Wilson, 309, 327, 328, 416, 422
Young, 421

N

Names of persons; resolution of enquiry in relation to changing, 48
legislature to pass no special laws for changing, 84, 531
natural rights of man, 99, 103 215, 651, 732

remarks of—

Mr. Bunker, 215
Clarke of Henry, 732
Harris, 732, 733
Skiff, 732
Wilson, 732

Naval service of the United States; persons serving in, not to vote in this State unless they are citizens, 36, 869
Navy; governor to be commander-in-chief of, 77, 583
Negroes and mulatoes; education of 62, 824

remarks of—

Mr. Clarke of Henry, 828, 829
Clarke of Johnson, 826, 827, 834
Edwards, 834
Gillaspy, 825, 826, 827, 832
Hall, 62, 827, 835
Marvin, 827
Parvin, 62, 835
Skiff, 828

PAGE

Solomon, 832
Wilson, 832
Negroes and mulattoes; to be prohibited from coming into the State, 913
right to hold property, 129, 130

remarks of—

Mr. Clarke of Henry, 129
Clarke of Johnson, 131, 134, 137
Gillaspy, 130, 131, 132, 133
Hall, 130, 131, 132 134, 135, 136, 395
Harris, 130, 133, 136
Marvin, 132
Parvin, 395
Skiff, 134
Todhunter, 136
Traer, 132, 136
Wilson, 135, 136
Negroes and mulattoes; right to give testimony, 99, 172, 179, 651, 734

remarks of—

Mr. Bunker, 199
Clark of Alamakee, 191
Clarke of Henry, 130, 131, 132 134, 136, 187
Clarke of Johnson, 178, 196, 734, 735
Edwards, 187, 188, 190
Ells, 175
Gibson, 195
Gillaspy, 172, 174, 176, 184 185, 186, 188, 195
Hall, 172, 174, 176, 178 189, 190, 395, 735
Harris, 174, 180, 184, 186, 188
Johnston, 200
Palmer, 735
Parvin, 176, 395
Peters, 198, 199
Scott, 735
Skiff, 172
Wilson, 180, 185, 186, 194
Negroes and mulattoes; serving in the militia of this State,

remarks of—

Mr. Clarke of Henry, 641, 642
Gillaspy, 642
Scott, 641
Winchester, 642

Digitized by Google

PAGE.

Negroes and mulattoes; allowing them the right to vote in this State, 649, 664, 888, 915

remarks of—

Mr. Bunker, 908, 909
Clark of Alamakee, 709
Clarke of Henry, 667, 676
Clarke of Johnson, 665, 666, 677, 680, 888
Edwards, 680, 691
Ells, 672, 675, 691, 905
Gibson, 694
Gower, 680
Hall, 687
Harris, 905
Marvin, 672, 676
Parvin, 699, 912
Peters, 680, 915
Scott, 664, 665
Winchester, 915

Newspapers; amount of expense for furnishing members of the convention with, 1036
publication of proposed amendments to the constitution, 34, 86, 602
publication of laws in, 84, 529
supplying members of the convention with, 10, 23, 25, 74

remarks of—

Mr. Bunker, 74
Clark of Alamakee, 23, 74, 75, 76
Clarke of Henry, 23, 75
Clarke of Johnson, 23, 26
Edwards, 23
Gillaspy, 57
Hall, 23, 25
Harris, 25
Johnston, 10
Palmer, 23, 25
Todhunter, 75
Traer, 25, 75
Wilson, 23

Night sessions of convention, 573, 780, 818

remarks of—

Mr. Clark of Alamakee, 813
Clarke of Henry, 573
Clarke of Johnson, 573, 814
Gillaspy, 813
Harris, 813
Johnston, 813
Palmer, 573
Skiff, 815
Solomon, 573
Todhunter, 813
Wilson, 573, 813, 814

"North-West;" admission upon the floor of the convention of reporter of the, 23

Notaries public; to be eligible to the general assembly, 84, 527, 576

Number of copies of the debates to be printed, 40, 54

remarks of—

Mr. Clark of Alamakee, 56
Clarke of Johnson, 55, 56
Ells, 57
Hall, 54, 57
Harris, 55
Johnston, 54, 58
Parvin, 54, 55
Peters, 57, 58
Solomon, 56
Todhunter, 59
Traer, 54

Number of members of the board of education, 78, 767, 815

remarks of—

Mr. Hall, 767
Skiff, 767, 768
Solomon, 767, 768

Number and length of sessions of the board of education, 78, 768, 816, 825, 938

remarks of—

Mr. Clarke of Johnson, 825
Hall, 769
Johnston, 769
Marvin, 768, 769
Skiff, 769
Todhunter, 769

Number of courts, 115, 228, 259, 430, 467

remarks of—

Mr. Clark of Alamakee, 238, 436, 441, 442, 471
Clarke of Henry, 234, 254, 255, 431
Clarke of Johnson, 227, 228, 243, 253, 254, 255, 438, 442, 443, 468, 469
Gibson, 444
Gillaspy, 443
Gower, 254, 445
Hall, 227, 229, 246, 255, 434, 436

Digitized by Google

PAGE.

Harris, 231, 254, 469, 470
Johnston, 439, 444
Palmer, 242, 251, 431, 437 442
Parvin, 443
Peters, 241, 249, 442, 444 467, 468, 470
Scott, 435
Skiff, 228, 229
Solomon, 252, 467, 470
Traer, 444
Wilson, 236, 250, 255, 430, 434, 440, 441
Winchester, 445
Number of judges of the supreme court, 115 259, 446, 462

remarks of—

Mr. Bunker, 464
Clark of Alamakee, 463
Clarke of Henry, 448, 463, 466
Clarke of Johnson, 447, 448, 462, 465
Gillaspy, 462
Hall, 446, 447, 463, 466
Harris, 463
Palmer, 447, 448
Traer, 462
Wilson, 449, 451
Number of judicial districts, 115, 259, 450 475, 508, 628

remarks of—

Mr. Clark of Alamakee, 629, 630
Clarke of Henry, 629, 633
Clarke of Johnson, 507, 629
Edwards, 631
Gibson, 634
Gower, 475
Harris, 475, 509, 632, 634
Parvin, 630
Patterson, 635
Price, 629
Skiff, 631
Wilson, 634
Winchester, 633
Young, 632, 634
Number of senators and representatives, 84 516, 541, 552, 576

remarks of—

Mr. Clarke of Henry, 553, 576
Clarke of Johnson, 542, 553
Edwards, 521
Gillaspy, 520
Gower, 520
Hall, 517
Harris, 553, 554
Johnston, 523
Palmer, 541, 542, 553
Parvin, 516, 517, 519
Scott, 518, 519
Solomon, 541, 542
Traer, 541, 553
Wilson, 541, 576
Young, 516, 521

O

Oath to be taken by members of the convention, 8

remarks of—

Mr. Bunker, 9
Clark of Alamakee, 8
Clarke of Henry, 8
Ha l, 8, 9
Johnston, 9
Marvin, 9
Palmer, 8
Parvin, 8
Todhunter, 8
Wilson, 9

Oath administered to members of the convention, 12
Oath to be taken by members of the general assembly, 84, 540
Oath to be taken by State officers, 648, 800 914, 998
Obligation of contracts; the legislature to pass no law impairing the, 100, 129, 208
Offenses, capital, not bailable, 99, 125, 201
Offering resolutions of enquiry—

remarks of—

Mr. Clark of Alamakee, 33, 87
Clarke of Henry, 33, 86
Clarke of Johnson, 32
Edwards, 31, 46
Emerson, 48
Hall, 86
Harris, 86
Johnston, 31, 40, 46, 86
Marvin, 38
Palmer, 40
P rvin, 31, 32
Warren, 87,
Wilson, 87

Digitized by Google

PAGE.

Office; governor to fill vacancies in, 77, 587
Office of governor and lieutenant governor; term of, 39, 76, 579, 586 590, 591

remarks of—

Mr. Clarke of Henry, 586
Gillaspy, 590
Hall, 580
Palmer, 580
Skiff, 586
Solomon, 590
Wilson, 586

office of judges of the district court; term of, 115, 259, 455, 472

remarks of—

Mr. Clarke of Alamakee, 474
Clarke of Johnson, 472, 473
Gillaspy, 472, 473

Office of judges of the supreme court; term of, 115, 259, 446, 462, 471

remarks of—

Mr. Clarke, of Johnson, 471
Palmer, 471

Officers of banks; liabilities of, 786

remarks of—

Mr. Emerson, 786
Scott, 789
Traer, 786, 789

Officers of the board of education, 78, 769 816, 938
Officers in the militia; eligible to the general assembly, 84, 527, 576
Officers; extra compensation to, 88, 84, 539
Officers now elected, to serve out their term under the new constitution, 914, 998
Offices of profit and trust; persons holding, not eligible to the general assembly, 84, 527, 576
members of the general assembly not to be appointed or elected to, 84, 527
order of business, 97, 216, 220, 284 329, 717, 732, 878

remarks of—

Mr. Bunker, 288, 881
Clarke of Alamakee, 720, 878, 879 372, 883
Clarke of Henry, 216, 217, 220, 223 284, 285, 278, 280, 286
Clarke of Johnson, 212, 217, 221, 286 238, 329, 480, 882, 888

PAGE

Edwards, 88, 97, 217, 222, 288 719, 882
Ells, 718
Gibson, 880
Gillaspy, 220, 221, 223, 284 285, 287, 718, 878 879, 880, 885, 888
Gower, 884
Hall, 97, 216, 217, 222 284, 286, 287, 719 720, 878, 879, 881 882, 885
Harris, 97, 98, 219, 221 284, 285, 881
Johnston, 216, 329, 717
Marvin, 286
Palmer, 885
Parvin, 220, 221, 329, 430
Price, 883, 884
Skiff, 720, 732, 878, 879
Solomon, 221, 718, 885
Todhunter, 884
Traer, 216, 732
Wilson, 216, 221, 222, 718, 879

P

PALMER, D. H.

appointed upon a committee to examine credentials of members, 5
appointed upon the standing committee upon miscellaneous subjects, 22
credentials of 6
mileage of, 1026
moved that members be furnished with twenty-four slips of debates, 68
nominated John C. Burns for assistant secretary, 7
offered a resolution to furnish members with twenty-five daily newspapers,
offered a resolution concerning amendment of the rules, 26
offered a resolution of enquiry in relation to the article upon the judicial department, 82
offered a resolution to furnish members with the reports of the supreme court, 88
offered a provision that certain contracts for state indebtedness should be void, 278

remarks upon—

adjournment, *sine die*, on the fourth of March, 503
age of governor and lieutenant governor, 580, 582

Digitized by Google

PAGE.

appointment of special committee upon the right of suffrage, 218
biennial sessions of the general assemblo, 510, 511
board of education, 723, 747, 754
boundaries of the state, 141, 142
capitol and university; location of, 877, 933
city and county indebtedness, 298
classification and number of senators, 517
compensation of lieutenant governor, 597
competency of witnesses and religious tests, 735
contracts for state indebtedness in certain cases to be void, 274, 280, 281
court of common pleas, 644
courts; number of, 242, 281, 431, 437, 442
criminal prosecutions; manner of conducting, 122
debt; imprisonment for, 129
disposition of the school fund, 846
disposition of the debates, 763, 765 766, 917
distribution of the school fund, 772
drawing seats in the senate chamber, 82
election of judges of the supreme court, 455
election of members of the general assembly, 515
election of United States senators, 645
filling temporary vacancies in district courts, 459
first election of lieutenant governor under the new constitution, 995
furnishing members with twenty-five daily newspapers, 23, 25
furnishing members with slips of debates, 28, 29, 68
furnishing members with reports of the supreme court, 88, 89
general assembly; time of election of 275
general laws; uniform operation of, 532
giving each editor in the state a copy of the debates, 1027
giving jurisdiction to magistrates over offences less than felony, 124
holding night sessions of the convention, 573
imprisonment for debt, 129
indebtedness of the state; limitation of, 270, 272, 277
instructing committees to report at a certain time, 627
judges of the supreme court; number of, 447, 448
judges of supreme court; election of, 455

PAGE.

judicial districts; reorganization of, 460
jurisdiction of magistrates over offences less than felony, 124
liability of stockholders in banks, 372 786, 787
lieutenant governor; salary of, 597
limitation of debate, 501
limitation of state indebtedness, 270, 272 277
location of state capitol and university, 877, 933
magistrates; jurisdiction over offences less than felony, 124
manner of conducting criminal prosecutions, 122
night sessions of the convention, 573
number of courts, 242, 251, 431, 437, 442
number of judges of the supreme court, 447 448
number and classification of senators, 517
number of representatives and senators, 541, 542, 553
oath to be taken by members of the convention, 8
offering resolutions of enquiry, 40
order of business, 885
place of meeting of the convention, 24
printing the reports of the special committee on the bill of rights, 657
prohibition of articles of manufacture and sale, 209
publication of laws in newspapers, 530
publication of the debates, 67
religious tests and competency of witnesses, 735
reorganization of judicial districts, 460
repeal of banking laws, 404
repeal of corporations, 104, 105 171, 411, 412
report of committee on future amendments to the constitution, 611, 626, 639, 640
representatives and senators; number of, 541, 542, 553
residence of voters, 867
salary of the lieutenant governor, 597
schedule; report upon, 1037, 1038
school fund; distribution of, 772
schools and school houses; taxes for, 841, 842
schools in each school district, 823
senators; number and classification of, 517 541, 542, 543
special committee on the right of suffrage, 218
state boundaries, 141, 142

Digitized by Google

PAGE.

state indebtedness; limitation of, 270, 272, 277
state officers; time of electing, 805
stockholders in banks; liabilities of, 371, 786, 787
subjects referred to committees without debate, 33
supreme judges; manner of electing, 455
supreme judges; number of, 447, 448
supreme judges; term of office of, 471
suspension of specie payment by banks, 403
taxes for schools and school houses, 841, 842
term of office of governor, 590
term of office of judges of the supreme court, 471
term of school in each school district, 823
time of electing members of the general assembly, 515
time of electing judges and state officers, 805
uniform operation of general laws, 532
United States senators; election of, 645
university and capitol; location of, 877, 933
veto power of the governor, 526
voters; residence of, 867
Paper folder of the convention; Willis Conard appointed, 95
rate of *per diem* of, 759
amount of *per diem* of, 1051
Paper money; resolution of enquiry concerning issuing of, 39
to be registered and countersigned, 96, 344, 775
to be issued by banks only, 97, 403, 420
Pardoning power of the governor, 89, 77, 586
Parker's sectional map supplied to members of the convention, 26
Parkhurst, Henry M.; resolution of thanks to, 1034
Parliamentary law; Jefferson's manual adopted as a standard of, 24
Cushing's manual substituted for Jefferson's manual as standard of, 21

PARVIN, J. A.

appointed upon the committee to report the number and character of the standing committees of the convention 20
appointed upon the standing committee upon the distribution of powers and the legislative department, 21
appointed upon the standing committee upon incorporations, 22
appointed chairman of the committee of the whole upon the article on education and school lands, 598
appointed upon the committee upon accounts and expenditures, 743
appointed upon the select committee upon printing the journal and constitution, 815
asked to be excused from serving upon the committee upon accounts and expenditures, 960
credentials of, 6
elected President *pro tem.* of the convention. 5
made a report from the standing committee upon distribution of powers, 37
made a report from the standing committee upon the legislative department, 82
mileage of, 1026
moved to lay resolution of enquiry upon the table, 50
offered a resolution of enquiry in relation to the article upon state debts, 34
offered a resolution of enquiry in relation to the article upon education and school lands, 62
presented a petition in relation to the exercise of the right of suffrage by negroes, 216

remarks upon—

age of governor and lieutenant governor, 583
amendment of the rules, 49
appointment of special committee upon the basis of representation, 63
appointment of paper folder to the convention, 95
appointment of select committee upon the bill of rights, 224
apportionment of senators, 1011
apportionment of members of the general assembly, 544, 1015
basis of representation, 544, 546, 554
banking under general laws, 347, 354
biennial sessions of the general assembly, 510, 559
city and county indebtedness, 305, 307, 314, 425
classification and number of senators, 516, 517, 519
committees of the convention, 19
common school system, 835
common schools to be free of charge, 971
compensation of the board of education, 96

Digitized by Google

PAGE

competency of witnesses and religious tests, 176
contracts in certain cases for state indebtedness to be void, 280
courts; number of, 443
criminal prosecutions; manner of conducting, 120, 122
Cushing's manual as the standard for parliamentary practice in the convention, 24
distribution of the constitution in German, 984
education of negroes and mulattoes, 62
election of general assembly, 514, 515
election of United States senator, 645
eligibility to the general assembly, 527
furnishing members with "constitutions of the states," 20
furnishing members with slips of debates, 70
giving each editor in the State a copy of the debates, 1027
general banking laws, 347, 354
general laws; uniform operation of, 502
impairing the right of property, 208
indebtedness of the state, 261, 264, 265, 272
instructing committees to report by a certain time, 627
judicial districts; number of, 630
Lee county; division of, 999
liability of stockholders in banks, 777, 778
limitation of state indebtedness, 261, 264 265, 272
making common schools free of charge, 971
manner of conducting criminal prosecutions, 120, 122
negroes and mulattoes; education of, 62
negroes and mulattoes holding property and giving testimony, 395
number of copies of the debates to be printed, 54, 55
number of courts, 443
number and classification of senators, 516 517, 519
number of judicial districts, 630
oath to be taken by the members of the convention, 8
offering resolutions of enquiry, 31, 32
order of business, 220, 221, 329, 430
paper folder to the convention, 9
per diem and mileage of members of the general assembly, 52
personal and general explanation, 1062

PAGE

political parties upon the question of slavery, 699
postage of the convention, 1049, 1050
powers of the board of education, 942
preamble and bill of rights 103
preferred creditors of banks, 790
printing the journal and constitution, 742 814, 974, 975, 977, 979
printing the report of the committee on the distribution of powers, 37
publication of the debates, 41, 44, 54
qualifications of voters, 47
recommitting the report of the judiciary committee to said committee, 256
religious tests and competency of witnesses, 176
removal of the convention from Iowa City, 13, 17
repeal of incorporations, 10
report of committee on future amendments to the constitution, 622
residence of members of the general assembly, 571
schedule; report upon, 1041
schools to be free of charge, 971
senators; number and classification of 516 517, 519
slavery; political parties upon the question of, 699
special committee upon the basis of representation, 63
special committee upon the bill of rights, 224
special committee upon the article on incorporations, 785
standing committees of the convention, 19
state bank and branches, 378, 385
state indebtedness; limitation of 261, 264 265, 272
stockholders in banks, 785, 788
striking word "white" from the constitution, 699
striking the word "white" from the article on the right of suffrage, 912
submission of banking laws to the people, 778
system of common schools, 835, 971
taking the chair as president of the convention, 5
temporary court for the trial of judges and state officers, 458, 459
time of holding election of members of the general assembly, 514, 515

Digitized by Google

PAGE.

PARVIN, J. A.

remarks upon—

time and place of meeting of the board of education, 965
uniform operation of general laws, 532
United States Senators; election of, 645
veto power of the governor, 525
"white;" striking from the constitution the word, 699
"white;" striking from the article on right of suffrage of the word, 912

PATTERSON, WILLIAM,

appointed upon standing committee upon the right of suffrage, 21
appointed upon the standing committee upon militia, 22
appointed chairman of the committee of the whole upon the article upon the legislative department, 510
credentials of, 6
mileage of, 1026
offered a resolution to admit to the floor of the convention the reporter of the Keokuk Times and the Gate City,
offered a resolution authorizing the President to appoint a chaplain, 22
offered a resolution to give the State Colonization Society the use of the Convention Hall,

remarks upon—

appointment of select committee upon the bill of rights, 225
city and county indebtedness, 297
final vote upon the constitution, 1055
giving each editor in the State a copy of the debates, 1027
indebtedness of the State; limitation of, 208
judges; salaries of, 505
judicial districts; number of, 635
Lee county; division of, 999
limitation of State indebtedness, 268
manner of conducting the business of the convention, 38
number of judicial districts, 635
personal and general explanation, 1064
recommitting the report of the committee on education and school lands to that committee, 856

PAGE

removal of the convention from Iowa City, 16, 17
salaries of judges, 505
State indebtedness; limitation of, 286
schedule; report upon, 1047
special committee upon the bill of rights, 225
penalties, fines and forfeitures, to continue under the new constitution, 914, 995
per diem of members of the board of education, 79, 772, 825, 853
per diem of members of the convention; resolution in relation to, 990
per diem of members of the general assembly, 30, 84, 528, 551
personal explanations,
by Mr. Clark of Alamakee, 527
Edwards, 508
Gillaspy, 1024
personal and general explanations, 1056

remarks of—

Mr. Bunker, 1064
Clarke of Henry, 1056, 1064
Clarke of Johnson, 1061
Edwards, 1062
Ells, 1063
Gillaspy, 1064
Hall, 1056, 1065
Harris, 1062
Johnston, 1061
Parvin, 1062
Patterson, 1064
Peters, 1064
Skiff, 1065
Todhunter, 1065
Wilson, 1060, 1063

PETERS, JOHN H.

appeared in his seat, 20
appointed upon the standing committee upon the preamble and bill of rights, 96
appointed upon the standing committee upon the schedule, 96
credentials of, 20
mileage of, 1026
offered a resolution to adjourn over till May, 496
offered a resolution of enquiry in relation to the article upon the judicial department, 46

Digitized by Google

PAGE.

remarks upon—

adjournment over till May, 296
adjournment *sine die* on the fourth of March, 503
banking under general laws, 257
city and county indebtedness, 317, 318, 417 805
competency of witnesses, and religious tests, 198, 199
county seats; changing location of, 556
court of common pleas, 644
courts; number of, 241, 249, 442, 444 467, 468, 470
drawing seats in the senate chamber, 82
exclusive jurisdiction of the United States over territory in Iowa, 209, 213
general banking, 357
indebtedness of cities and counties, 317, 318 417, 805
judges; salaries of, 485, 487
jurisdiction of the United States over territory in Iowa, 209, 213
location of county seats, 556
number of courts, 241, 249, 442, 444 467, 468, 470
number of copies of debates to be published, 57
personal and general explanations, 1064
previous question upon the board of education, 9 2
printing reports of the special committee upon the bill of rights, 6 8
private property taken for public uses, 204
publication of the debates, 57, 58
religious tests, and competency of witnesses, 1.8, 19.
repeal of corporations, 144, 145
salaries of judges, 485, 487
striking the word "white" from the constitution, 680, 915
United States; jurisdiction over territory in Iowa, 209, 213
"white;" striking from the constitution the word, 680, 915
petit and grand jurors; resolution of enquiry in relation to the empanelling of, 48
petition; right of guaranteed to the people, 100, 129, 207
petitions; from citizens of Delaware county in relation to banking, 24
in relation to townships and county officers, 24
in relation to laws concerning the observance of the Christian Sabbath, 47, 361
in relation to the general assembly, 79
in relation to the prohibition of intoxicating liquors, 115, 647
in relation to persons of color, 115, 216, 395
in relation to the size of counties, 216
points of order; the president of the convention to speak upon, 20
to be decided without debate, after the previous question is ordered, 21
political and municipal corporations; not to take stock in banking corporations, 96 289, 419, 448, 773 775

remarks of—

Mr. Clarke of Henry, 289, 290
Hall, 289, 290
Scott, 290
Wilson, 290
Political and municipal corporations; in regard to the taking stock in companies for internal improvement, 96, 290, 329, 415 421, 776, 805, 812

remarks of—

Mr. Ayres, 291, 292, 297
Bunker, 306
Clark of Alamakee, 51, 318, 324, 418 421, 423, 425, 426 427, 777, 80
Clarke of Henry, 52, 301, 325, 343 344, 418, 805, 806
Clarke of Johnson, 50, 51, 52, 304, 3(5 309, 336, 344, 415 417, 418, 421, 424 425, 426, 427, 776 805
Edwards, 293, 295, 300, 301 304, 306, 316, 330 335, 421, 422, 423 425, 776, 806, 812
Ells, 3:2
Emerson, 51, 297, 315, 316 317, 318, 812
Gibson, 424 810
Gilaspy, 294, 307, 328 416 421, 777, 778, 805
Gower, 290, 294
Gray, 295
Hall, 51, 52, 292, 295, 299 302, 303, 305 307 313, 314, 324, 327 328, 332, 343, 421 426, 806

Digitized by Google

PAGE.

Political and municipal corporations; in regard to the taking stock in companies for internal improvement—

remarks of—

Harris, 291, 301, 306, 313, 329, 425
Johnston, 51, 291, 302, 342, 343, 426, 776
Marvin, 290, 297, 312, 423
Palmer, 298
Parvin, 305, 307, 314, 425
Patterson, 297
Peters, 317, 318, 417, 805
Price, 335
Scott, 313, 422
Skiff, 290, 311, 415, 425, 427, 808
Solomon, 311, 776, 778
Traer, 421, 775, 776, 777
Warren, 51
Wilson, 309, 327, 328, 416, 422
Young, 421

Political and municipal corporations; to be restrained by law in relation to assessments, taxation, issuing bonds, &c., 96, 344

Political parties; their course in regard to the question of slavery, 680, 888, 915

remarks of—

Mr. Bunker, 909
Clark of Alamakee, 709
Clarke of Johnson, 888
Edwards, 680
Ells, 905
Gibson, 694
Hall, 687
Harris, 905
Parvin, 699
Winchester, 915

Postage of the convention; resolution in relation to, 22
amount of, 1049
upon forwarding mail matter and slips of the debates after the adjournment, 1049, 1055

remarks of—

Mr. Clark of Alamakee, 1050
Clarke of Henry, 1055
Clarke of Johnson, 1050
Johnston, 1049, 1055
Marvin, 1049
Scott, 1050, 1055
Skiff, 1056
Todhunter, 1049

PAGE

Postmasters with a salary of not over one hundred dollars to be eligible to the general assembly, 84, 527, 576

Practice in courts of justice; resolution of enquiry in relation to, 48
provision in relation to a general system of, 477

Preamble and bill of rights; appointment of standing committee upon, 10, 19, 21
appointment of special committee upon, 223

remarks of—

Mr. Bunker, 223, 225
Clarke of Henry, 223, 224
Hall, 223, 224, 225
Harris, 224
Johnston, 223, 226
Marvin, 226
Parvin, 224
Patterson, 225
Todhunter, 223
Wilson, 224

Preamble and bill of rights; petitions and resolutions of enquiry referred to committee upon, 21, 39, 80, 115, 396
report from special committee upon, 652
report from standing committee upon, 46

remarks of—

Mr. Clarke of Johnson, 108
Ells, 100
Parvin, 103

Preamble and bill of rights; third reading of article upon, 1006
yeas and nays upon final passage of article upon, 1008

Preferred creditors of banks, 97, 396, 790

remarks of—

Mr. Clark of Alamakee, 397, 400, 791
Clarke of Henry, 401
Ells, 397
Gillaspy, 402
Hall, 396, 397, 401, 790
Harris, 398
Marvin, 398, 402, 790
Parvin, 790
Skiff, 396, 397, 399
Solomon, 403
Traer, 398, 399, 400
Wilson, 396, 399, 402
Young, 399

Digitized by Google

PAGE.

President of the convention; election of, 6
remarks upon taking his seat of the, 6
duties of, 20
manner of addressing the, 21
authorized to appoint a chaplain, 22
authorized to draw certificates for payment of the reporter and printer of the debates, 26
per diem of, 760
resolution of thanks to, 1022
resolution presenting a chair to, 1022
closing address of, 1065
President of the senate; lieutenant governor to be the, 77, 588.
per diem of, 77, 588
to sign bills that pass the general assembly, 83, 525
Presentment of a grand jury required in criminal prosecutions, 99, 124, 201
Press; freedom of, 99, 118, 201
Previous question; when in order, 21
to be demanded by a majority of the members present, 21
how it shall be put, 21
effect of, 21

PRICE, D. W.

appointed upon the standing committee upon the executive department, 21
appointed upon the special committee upon the bill of rights, 219
appointed upon the special committee upon incorporations, 430
credentials of, 6
mileage of, 1026
offered a resolution of enquiry in relation to the article upon the executive department, 39

remarks upon—

adding two members to the committee on accounts and expenditures, 959
city and county indebtedness, 335
judicial districts; number of, 629
location of public lands by the state, 801
order of business, 883, 884
postponing consideration of the report of the standing committee upon the executive department, 219, 329, 430
prosecuting attorneys, 475
publication of debates, 42
repeal of corporations, 151
residence of voters, 863
Printers of the debates, 26, 53

PAGE

Printer of the incidental work of the convention, 24
Printing one hundred copies of the old constitution for the use of members of the convention, 11, 20
two hundred copies of the rules of the convention, 23
two thousand copies of the new constitution for the use of members of the convention, 1025
the new constitution in the German language, 743, 815

remarks of—

Mr. Clarke of Johnson, 743
Gower, 976
Johnston, 743
Scott, 976
Printing the new constitution in the Holland language, 743, 973, 986
the journal and constitution, 42, 814, 972

remarks of—

Mr. Bunker, 978, 979
Clark of Alamakee, 973, 974, 981
Clarke of Henry, 975, 981, 982
Clarke of Johnson, 814, 815, 973 974, 975, 979
Edwards, 974, 976, 977
Gower, 814, 983
Hall, 815, 976, 978, 980
Harris, 974
Marvin, 814, 982
Parvin, 742, 814, 974 975, 977, 979
Skiff, 975, 976, 978
Solomon, 983
Traer, 980
Wilson, 973, 974, 975, 977, 978
Printing the reports of the special committee on the bill of rights, 654

remarks of—

Mr. Bunker, 655
Clarke of Henry, 655
Clarke of Johnson, 654
Edwards, 656
Gillaspy, 654
Harris, 655
Johnston, 655, 656
Palmer, 657
Wilson, 655
Winchester, 654
Young, 655

Digitized by Google

PAGE.

Printing the reports of the special committee on the right of suffrage, 657

remarks of—

Mr. Clark of Alamakee, 663
Clarke, of Henry, 660
Clarke of Johnson, 660
Edwards, 659
Gillaspy, 659
Hall, 658, 662
Skiff, 657
Solomon, 657
Wilson, 657

Printing the report of the standing committee on amendments to the constitution, 36

Printing the report of the standing committee on the distribution of powers, 37

Private property taken for the use of roads, 97, 126

remarks of—

Mr. Clark of Alamakee, 126, 127, 128
Clarke of Johnson, 128
Gillaspy, 127
Hall, 128
Harris, 126, 128
Todhunter, 12
Traer, 128

Private property taken for public uses, 99 202, 413

remarks of—

Mr. Clark, of Alamakee, 207, 413
Clarke of Henry, 413
Gillaspy, 205
Gower, 205, 206
Hall, 206
Harris, 202, 204
Marvin, 206
Peters, 204
Scott, 204
Traer, 204
Warren, 207
Wilson, 203, 205, 207
Winchester, 203

Private roads; damages for opening, 64, 126

Privilege from arrest of voters on days of election, 36, 869

of members of the general assembly during the session of the legislature, 83, 524

Privileges and immunities, special; provision in relation to granting, 64, 104, 143 407, 648, 773

PAGE.

Privileges and immunities, special; repeal of, 63, 104, 143, 407 420, 649

remarks of—

Mr. Bunker, 165
Clark of Alamakee, 106, 107, 111, 113 114, 156, 411
Clarke of Henry, 104, 110, 111, 115 152, 154, 165, 168 712
Clarke of Johnson, 105, 108, 145, 158 160, 161, 408, 409
Edwards, 150
Ells, 104, 143, 168, 171, 407
Emerson, 112, 171
Harris, 109, 114, 156, 162, 407
Palmer, 104, 105, 171, 411, 412
Parvin, 109
Peters, 144, 145
Price, 151
Scott, 104
Skiff, 164, 168, 407, 408
Solomon, 161
Traer, 145, 409
Wilson, 105, 106, 107, 111 114, 153, 154, 155 160, 407, 408, 409
Winchester, 158

Process; provision in relation to the style of, 116, 260, 457, 477

Profit and trust; members of the general assembly not eligible to offices of, 84, 527

Prohibition of articles of manufacture and sale, 84, 86, 139, 209

remarks of—

Mr. Clark, of Alamakee, 139
Clarke of Johnson, 139, 206
Gillaspy, 209
Hall, 137
Palmer, 109
Solomon, 139, 209
Traer, 139

Prohibition of intoxicating liquors; petitions in relation to, 115, 647
provision in relation to, 139, 209

Prohibition of negroes and mulattoes coming into the state, 913

Property of corporations to be taxed, 88, 96 289, 415, 648, 779

Property; provision in relation to impairing the right of, 129, 208

Digitized by Google

PAGE.

remarks of—

Mr. Clarke of Henry, 208
Gillaspy, 208
Hall, 208
Parvin, 208
Wilson, 208
Property of private individuals taken for the use of roads, 97, 126

remarks of—

Mr. Clark, of Alamakee, 126, 127, 128
Clarke of Johnson, 128
Gillaspy, 127
Hall, 128
Harris, 126, 128
Todhunter, 127
Traer, 128
Property of private persons taken for the use of the public, 99, 212, 412

remarks of—

Mr. Clark of Alamakee, 207, 413
Clarke of Henry, 413
Gillaspy, 205
Gower, 205, 206
Hall, 206
Harris, 202, 204
Marvin, 206
Peters, 240
Scott, 204
Traer, 204
Warren, 207
Wilson, 203, 205, 207
Winchester, 203
Prosecuting attorneys, 38, 260, 456, 475

remarks of—

Mr. Edwards, 456
Gillaspy, 477
Harris, 476
Price, 475
Solomon, 456, 476
Prosecution of criminal offenses; manner of conducting, 69, 99, 119, 201, 739

remarks of—

Mr. Clark of Alamakee, 120. 122, 737
Clarke of Henry, 121, 123, 124, 201, 736
Hall, 120, 122, 123, 730
Harris, 119, 120, 128, 736, 737
Johnston, 201
Palmer, 122
Parvin, 120, 122
Skiff, 201
Solomon, 122
Todhunter, 121. 123
Wilson, 121, 424, 738, 740
Protest against the schedule by Mr. Gillaspy, 1037
by Mr. Hall, 1040
Public agents; extra compensation to, 38 84 589
Public institutions of the state; resolution in relation to the appointment of standing committee upon, 10
resolution of enquiry in relation to the location of, 88
Public instruction; term of office of the superintendent of, 77, 588
superintendent of, liable to impeachment, 83
abolition of the office of superintendent of, 588, 590

remarks of—

Mr. Clarke of Henry, 588. 589
Gillaspy, 588
Skiff, 589
Wilson, 589
Public lands; location by the state of, 648 801, 811

remarks of—

Mr. Clark of Alamakee, 811
Clarke of Johnson, 801
Hall, 801
Price, 801
Public squares; resolution of enquiry in relation to vacating, 48
provision in relation to vacating, 84, 531
Publication of proposed amendments to the constitution in newspapers, 34, 36, 602
of laws in newspapers, 84 529
of the debates, 22, 40, 53, 67

remarks of—

Mr. Clark of Alamakee, 28. 44, 56
Clarke of Henry, 28, 44, 56
Clarke of Johnson, 22. 27, 43 55. 56, 58, 69
Ells, 27. 41, 42 57
Emerson, 56
Gillaspy, 67
Hall, 27 54, 57
Harris, 51, 45, 55

Digitized by Google

PAGE.

Johnston, 44, 54, 58
Parvin, 41, 44, 54
Peters, 57, 58
Price, 42
Solomon, 56
Todhunter, 59
Traer, 40, 41, 42, 43, 54, 67, 71
Warren, 27, 28

Punishment of frauds in banking, 392, 419

remarks of—

Mr. Clark of Alamakee, 394
Gillaspy, 391, 393, 394
Hall, 392, 393
Skiff, 392
Solomon, 393
Traer, 393, 395
Wilson, 393

Punishment of misdemeanors and crimes; resolution of enquiry in relation to, 48

Punishments; unusual, not to be inflicted, 99, 126, 202

Purchase of Greene's reports of the supreme court for the use of members of the convention, 1051

remarks of—

Mr. Clark of Alamakee, 1052, 1053
Clarke of Johnson, 1051, 1052, 1053
Hall, 1052
Harris, 1053
Johnston, 1052, 1053, 1054
Todhunter, 1052, 1053
Traer, 1053, 1054

Q

Quaintance, John; appointed assistant fireman for the convention, 24
rate of *per diem* of 759
amount of *per diem* of, 1050

Qualifications of members of the board of education, 78, 768, 816
of members of the general assembly, 83, 516
of the governor, 77, 580, 586, 597
of members of the house of representatives, 83, 515
of lieutenant governor, 77, 580, 586, 597
of senators, 83, 516

R

Railroad employees; amendment in relation to the voting of, 813

Real estate of corporations to escheat to the State at the end of twenty-five years, 97, 413

Real estate; resolution of enquiry in relation to guardians of minors selling, 48

Rebellion; suspension of habeas corpus in times of, 99, 125, 202
state to have power to contract debts to suppress, 52, 273, 279

Recommitting the report of the committee on education and school lands to that committee, 853

remarks of—

Mr. Clarke of Henry, 855, 857
Clarke of Johnson, 857
Edwards, 855
Ells, 856
Gillaspy, 853, 854
Harris, 854
Marvin, 855
Patterson, 856
Skiff, 854
Todhunter, 853, 856
Wilson, 855
Winchester, 855

Recommitting the report of the judiciary committee to that committee, 256, 509

remarks of—

Mr. Clarke of Henry, 256, 257, 258
Gillaspy, 257
Hall, 258
Harris, 258, 259, 509
Johnston, 256, 257
Parvin, 256
Todhunter, 257
Traer, 258

Reconsideration; when in order, 21
effect of laying upon the table motion for, 25

Registering and countersigning of bank bills, 96, 344

Registering of voters of the State, 868 869

remarks of—

Mr. Clarke of Johnson, 868
Harris, 869

Religion; the legislature to pass no law for the establishment of, 99, 118

Digitized by Google

PAGE

Religious tests, and competency of witnesses, 99, 172, 179, 651 734

remarks of—

Mr. Bunker, 199
Clarke of Alamakee, 191
Clarke of Henry, 130, 131, 132, 134 136, 137
Clarke of Johnson, 178, 196, 734, 735
Edwards, 187, 188, 190
Ells, 175
Gibson, 195
Gillaspy, 172, 174, 176, 184 185, 186, 188, 195
Hall, 172, 174, 176, 178 189, 190, 735
Harris, 174, 180, 184, 186 188
Johnston, 200
Palmer, 735
Parvin, 176
Peters, 198, 199
Scott, 735
Skiff, 172
Wilson, 180, 185, 186, 194

Removal of the convention from Iowa City, 5, 12, 22

remarks of—

Mr. Ayers, 16
Bunker, 14
Clark of Alamakee, 17
Clarke of Henry, 15, 17
Clarke of Johnson, 11, 12, 14, 16, 18
Edwards, 18, 20
Ells, 11, 12, 13
Emerson, 17, 18
Gillaspy, 18
Gower, 16
Hall, 13, 15, 17, 18
Harris, 17, 18
Johnston, 11
Parvin, 13, 17
Patterson, 16, 17
Todhunter, 12
Traer, 12, 16
Wilson, 17, 18

Removal from Iowa City; resolution in relation to the suppression of the debate upon, 35

remarks of—

Mr. Clarke of Alamakee, 35
Clarke of Johnson, 35
Gillaspy, 35
Hall, 35
Johnston, 35
Traer, 35
Young, 35

Removal of county seats and boundaries, 45 532, 551, 556

remarks of—

Mr. Clark of Alamakee, 533, 536, 539, 552
Clarke of Henry, 535, 539, 552
Clarke of Johnson, 552
Gillaspy, 534
Hall, 535, 538
Marvin, 532, 538, 555, 552
Peters, 556
Scott, 538
Solomon, 534
Traer, 533, 534, 537

Reorganization of courts and judicial districts, 116, 260, 460, 507 628

remarks of—

Mr. Clarke of Henry, 638
Clarke of Johnson, 460, 507, 635, 636
Hall, 637
Palmer, 460
Wilson, 507, 636

Repeal of laws in relation to banking, 97, 405 649, 773

remarks of—

Mr. Clarke of Henry, 464, 405, 773, 774
Clarke of Johnson, 404, 773
Johnston, 406
Palmer, 404
Skiff, 404
Wilson, 404, 405, 406

Repeal of special corporations, 104, 143, 407 420, 629

remarks of—

Mr. Bunker, 165
Clark of Alamakee, 106, 107, 111, 113 114, 150, 401
Clarke of Henry, 104, 110, 111, 115 152, 154, 165, 168 412
Clarke of Johnson, 105, 108, 145, 158 160, 161, 408, 409
Day, 406
Edwards, 150
Harris, 109, 114, 156, 162 407

Digitized by Google

PAGE.

Repeal of special corporations—

remarks of—

Palmer, 104, 105, 171, 411, 412
Parvin, 109
Peters, 144, 145
Price, 151
Scott, 104
Skiff, 164, 168, 407, 408
Solomon, 161
Traer, 145, 409
Wilson, 105, 106, 107; 111, 114, 153, 154, 155, 160, 161, 407, 408, 409
Winchester, 158

Repeal of tax laws, 53, 273, 279
Reporters of the courts, 116, 260
Reporter of the convention; resolution in relation to the appointment of, 10
appointment of committee in relation to, 11
report of committee in relation to, 11
appointment of, 12
resolution to furnish documents and stationery to, 20
compensation of, 26
resolution of thanks to, 1034
Reporters of papers admitted to the floor of the convention,
of Gate City, 19
Iowa City Republican, 19
Keokuk Times, 19
Maquoketa Excelsior, 23
North West, 23
Reports of the supreme court; supplying members with, 88

remarks of—

Mr. Clarke of Alamakee, 91, 94
Clarke of Henry, 89, 93
Clarke of Johnson, 88, 89, 90
Edwards, 88, 89, 93
Emerson, 88
Gower, 88
Hall, 88, 89, 91, 92, 93
Harris, 88, 89, 92
Johnston, 94
Palmer, 88, 89
Scott, 90
Solomon, 92
Todhunter, 89
Traer, 91, 92, 93
Winchester, 90
Young, 90

Reports of the supreme court by judge Greene; purchase of, 1051

remarks of—

Mr. Clark of Alamakee, 1052, 1053
Clarke of Johnson 1051, 1052, 1053
Hall, 1052
Harris, 1053
Johnston, 1052, 1053, 1054
Todhunter, 1052, 1053
Traer, 1053, 1054

Reports of special committees—
on accounts and expenditures, 758, 1025, 1026
on the basis of representation, 275
on credentials, 6
on bill of rights, 651
distribution of the debates, 850
to examine rooms for the convention, 24
on incorporations, 648
on printing the constitution and journal, 972
on the removal of the convention from Iowa City, 12
on reporting and publishing the debates, 26
on the rules of the convention, 20
on the standing committees of the convention, 21
on suffrage, 649

Reports of the special committee on the bill of rights; printing of, 654

remarks of—

Mr. Bunker, 655
Clarke of Henry, 655
Clarke of Johnson, 654
Edwards, 656
Gillaspy, 654
Harris, 655
Johnston, 656
Palmer, 657
Wilson, 655
Winchester, 654
Young, 655

Reports of the special committee on the right of suffrage; printing of, 657

remarks of—

Mr. Clarke of Alamakee, 663
Clarke of Henry, 660
Clarke of Johnson, 660

Digitized by Google

PAGE.

Edwards, 659
Gillaspy, 659
Hall, 658, 662
Skiff, 657
Solomon, 657
Wilson, 657

Report of the special committee on the right of suffrage, being a resolution to submit to the people the question of striking the word "white" from the constitution, 649

remarks of—

Mr. Bunker, 908, 909
Clark of Alamakee, 709
Clarke of Henry, 667, 676
Clarke of Johnson, 665, 666 675, 680, 888
Edwards, 680, 691
Ells, 672, 675, 691, 905
Gibson, 694
Gower, 680
Hall, 687
Harris, 905
Marvin, 672, 676
Parvin, 699, 912
Peters, 680, 915
Scott, 664, 665
Winchester, 915

Report of the standing committee on amendments to the constitution, 36

remarks of—

Mr. Bunker, 605
Clark of Alamakee, 607, 608 609, 610, 640
Clarke of Henry, 612, 616, 618, 620 626, 640, 1031, 1032
Clarke of Johnson, 608, 616, 617, 618 620, 621, 639, 640
Gibson, 603. 612, 615 618, 623, 626, 1032
Gillaspy, 604, 607, 608, 609
Gower, 615
Hall, 615, 616, 617 621, 622, 623 624, 625, 1031, 1032
Harris, 604, 606, 613 614, 1031, 1032
Marvin, 619, 620, 1031
Palmer, 611, 626, 639, 640
Parvin, 622
Scott, 606
Solomon, 611, 1031
Traer, 604, 607, 624, 625, 939
Wilson, 610, 616, 619, 620 621, 622, 623, 625 626, 1031, 1032
Winchester, 603, 604

Report of the standing committee on the preamble and bill of rights, 64

remarks of—

Mr. Clarke of Johnson, 103
Ells, 100
Parvin, 103

Report of the standing committee on education and school lands, 78

second report of the standing committee on education and school lands, 871

first minority report from the standing committee on education and school lands, 79

second minority report of the committee on education and school lands, 873

Report of the standing committee on the executive department, 76

of the standing committee on incorporations, 96

of the standing committee on the judicial department, 115

of the minority of the standing committee on the judiciary, 116

of the majority (second report,) of the standing committee on the judicial department, 259

of the minority (second report,) of the standing committee on the judicial department, 260

of the standing committee on the legislative department, 37, 82

of the standing committee on the militia, 6 8

of the standing committee on miscellaneous subjects, 648

of the standing committee on the right of suffrage, 36

of the standing committee on the schedule, 914

remarks of—

Mr. Gillaspy, 1036, 1037
Hall, 1037, 1040, 1041
Harris, 1038, 1039 1042, 1043, 1044 1045, 1046, 1048
Johnston, 1037, 1047

Digitized by Google

PAGE.

Palmer, 1037, 1038
Parvin, 1041
Patterson, 1047
Todhunter, 1037
Wilson, 1036, 1037, 1038, 1039, 1041, 1042, 1043, 1044, 1045, 1046

Report of the standing committee on state debts upon a resolution of enquiry in relation to city and county indebtedness, 50

of the standing committee on state debts in relation to the article upon state debts, 52

Reports of standing committees to be acted upon in the order of their appointment, 95

of standing committees to be read on three several days, 87, 118

Representation; appointment of the special committee upon the basis of, 62, 74

remarks of—

Mr. Clarke of Henry, 63
Hall, 62
Harris, 62, 63
Johnston, 62
Parvin, 63
Solomon, 63
Traer, 63

Representation; apportionment of, 84, 540, 10, 1011, 1013

remarks of—

Mr. Clarke of Henry, 1015, 1016
Clarke of Johnson, 1013, 1014, 1015
Marvin, 1016
Skiff, 1011
Traer, 540, 1014, 1015
Wilson, 1015

Representation; apportionment by first general assembly under the new constitution—

remarks of—

Mr. Wilson, 998
Winchester, 998

Representation, basis of; provision in relation to, 275, 543, 554, 577, 579

remarks of—

Mr. Clarke of Henry, 554, 555
Hall, 546
Harris, 545, 554, 578
Marvin, 548
Parvin, 544, 546, 554
Solomon, 546, 549, 577, 578, 579
Traer, 543, 554, 578

Representative districts; formation of, 84, 549

Representatives; qualifications of, 183, 516
number of senators and, 84, 516, 541, 552, 576

remarks of—

Mr. Clarke of Henry, 553, 576
Clarke of Johnson, 542, 553
Edwards, 521
Gillaspy, 520
Gower, 520
Hall, 517
Harris, 553, 554
Johnston, 523
Palmer, 541, 542, 553
Parvin, 516, 517, 519
Scott, 515, 519
Solomon, 541, 542
Traer, 441, 553
Wilson, 541, 576
Young, 516, 521

Representatives and senators; term of residence of, 83, 516

remarks of—

Mr. Clark of Alamakee, 569, 573
Clarke of Henry, 568
Clarke of Johnson, 568, 1015
Edwards, 571
Gillaspy, 557, 569, 570
Gower, 568
Gray, 567
Parvin, 571
Solomon, 567, 570, 571, 572
Traer, 557, 558, 572

Reprieves; governor to have power to grant, 77, 586

Rescinding resolution fixing time for adjournment, *sine die*, 941, 1012

remarks of—

Mr. Gillaspy, 1013
Todhunter, 1012, 1013
Traer, 1013
Wilson, 1013

Residence, term of; of the governor and lieutenant governor, 77, 580
of the members of the general assembly, 83, 516, 557, 567, 1013

Digitized by Google

PAGE.

remarks of—

Mr. Clark of Alamakee, 569, 573
Clarke of Henry, 568
Clarke of Johnston, 568, 1015
Edwards, 517
Gillaspy, 557, 569, 571
Gower, 568
Gray, 567
Parvin, 571
Solomon, 567, 570, 571, 572
Traer, 557, 558, 572
Residence of voters, 36, 860, 870

remarks of—

Mr. Clark of Alamakee, 860, 862
Clarke of Henry, 863, 868, 870
Clarke of Johnson, 860, 861, 862, 864 870
Gibson, 867
Gillaspy, 860
Harris, 860, 864, 867
Marvin, 867
Palmer, 867
Price, 863
Scott, 865
Solomon, 861

Resolutions of enquiry—

by Mr. Ayres, in relation to city and county indebtedness, 32
by Mr. Bunker, in relation to state bank and branches, 38
by Mr. Clark of Alamakee, in relation to general banking, 39
by . do, in relation to the article upon the judicial department, 64
by Mr. Clarke of Henry, in relation to elections, 80
by do, in relation to the article upon the judicial department, 81
by do, in relation to the creation of the office of lieutenant governor, 39
by do, in relation to the article upon the legislative department, 45
by do, in relation to the article upon the right of suffrage, 45, 81
by Mr. Clarke of Johnson, in relation to the article upon the judicial department, 33
by Mr. Edwards, in relation to the arcle upon the judiciary department, 38
by do, in relation to the framing of special laws by the general assembly, 47
by Mr. Gibson, in relation to the article upon state debts, 34
by Mr. Gower, in relation to banking under general laws, 59
by do, in relation to the location of the capitol of the state, 88
by do, in relation to the proper disposition of the school fund, 47
by Mr. Harris, in relation to the plan of dividing the state into judicial districts, 876
by Mr. Johnston, in relation to the article on education and school lands, 39
by do, in relation to the article upon the legislative department, 30
by Mr. Palmer, in relation to the article upon the judicial department, 82
by Mr. Parvin, in relation to the article upon education and school lands, 62
by do, in relation to the article upon state debts, 34
by Mr. Peters, in relation to the article upon the judicial department, 46
by Mr. Price, in relation to the article upon the executive department, 39
by Mr. Seely, in relation to the basis of representation, 64
by Mr. Solomon, in relation to age of state officers, 47
by do, in relation to the issuing of paper money in this state, 39
by do, in relation to the prohibition of articles of manufacture and sale, 39
by Mr. Todhunter, in relation to the article upon the executive department, 35
by Mr. Traer, in relation to the article upon amendments to the cons itution, 33
by Mr. Wilson, in relation to the article upon amendments to the constitution, 34
by do, in relation to the article upthe legislative department, 23

Resolutions of enquiry ; offering of—

remarks of—

Mr. Clark of Alamakee, 33, 87
Clarke of Henry, 33, 86
Clarke of Johnson, 32
Edwards, 31, 46
Emerson, 48
Hall, 86
Harris, 86
Johnston, 31, 40, 46, 66
Marvin, 33
Palmer, 40
Parvin, 31, 32
Warren, 87
Wilson, 87

Digitized by Google

PAGE.

Resolutions, miscellaneous, in relation to—
addition of two mambers to the committee on accounts and expenditures ; by Mr. Gibson, 958
adjournment over till May by Mr. Peters, 496
adjournment *sine die*, by Mr. Edwards, 1065
adjournment *sine die*, by Mr. Gillaspy, 360
adjournment *sine die*, by Mr. Hall, 502
adjournment *sine die*, by Mr. Winchester, 478
admitting reporters of state papers, to the floor of the convention, by Mr. Clark of Alamakee, 23
admitting the reporters of the Keokuk Times and Gate City to the floor of the convention, by Mr. Patterson, 19
admitting the reporter of the Iowa City Republican to the floor of the convention, by Mr. Clarke of Johnson. 19
admitting the reporter of the North West to the floor of the convention by Mr. Emerson, 23
admitting the reporter of the Maquoketo Excelsior to the floor of the convention, by Mr. Warren, 23
allowing the State Colonization Society the use of the convention room, by Mr. Patterson, 34
amendment of the rules, by Mr. Clarke of Johnson, 118
amendment of the rules, by Mr. Harris, 118
amendment of the rules, by Mr. Palmer, 26
amendment of the rules, by Mr. Traer, 48, 64
appointment of committee to draft rules for the government of the convention, by Mr. Todhunter, 10
appointment of chaplain to the convention by the President, by Mr. Patterson, 22
appointment of a reporter of the debates, by Mr. Clarke of Henry, 10
appointment of standing committee upon the charitable institutions of the State, by Mr. Harris, 96, 118
appointment of special committee upon the basis of representation, by Mr. Traer, 62
appointment of special committee to ascertain the cause of the delay in the printing of the debates, by Mr. Clark of Alamakee, 494
appointment of special committee upon the school fund, by Mr. Johnston, 781
appointment of special committee on revision, by Mr. Clarke of Henry, 494

PAGE

appointment of Mr. Peters upon the standing committee upon the preamble and bill of rights, and the schedule, by Mr. Robinson, 96
appointment of John Quaintance assistant fireman, by Mr. Clarke of Johnson, 24
calling upon the Secretary of State for information concerning the judicial districts, by Mr. Clarke of Johnson, 40
calling upon the Secretary of State for information concerning the indebtedness of the counties in this State, by Mr. Traer, 94
compensation of the secretary of the convention for enrolling the journal, by Mr. Clarke of Johnson, 877
distribution of the debates by Mr. Wilson, 761
dividing the State into judicial districts, by Mr. Harris, 874
drawing seats in the senate chamber, by Mr. Gray, 81
drawing seats in the senate chamber, by Mr. Clarke of Henry, 82
duties of the secretary in making up the journal, by Mr. Hall, 64, 85
election of the officers of the convention, by Mr. Winchester, 6
election of the President of the convention, by Mr. Clarke of Johnson, 6
employment of an enrolling clerk, by Mr. Wilson, 742
employment of John Teesdale to print one hundred copies of the constitution, by Mr. Clarke of Johnson, 11, 20
employment of John Teesdale to print two hundred copies of the rules of the convention, by Mr. Clarke of Johnson, 23
employment of John Teesdale to do the incidential printing of the convention, by Mr. Clarke of Johnson, 24
enrolling the journal of the convention, by Mr. Clarke of Johnson, 758
forwarding mail matter to members of the convention after adjournment, by Mr. Winchester, 1012
furnishing members of the convention with the acts of the legislature of 1855 and 1856, by Mr. Edwards, 10
furnishing members with code of Iowa, by Mr. Edwards, 10
furnishing members with the constitutions of the several States, by Mr. Clarke of Johnson, 20

Digitized by Google

PAGE.

furnishing members with Cushing's Manual, by Mr. Ells, 24

furnishing members with a list of the organized counties in this State, by Mr. Hall, 26

furnishing members with twenty-five daily newspapers, by Mr. Palmer, 10, 23

furnishing members with fifteen additional newspapers, by Mr. Harris, 74

furnishing members with an abstract of the organized counties in this state; by Mr. Todhunter, 34

furnishing members with Parker's sectional map; by Mr. Hall, 26

furnishing members with the reports of the supreme court; by Mr. Palmer, 88

furnishing members with stationery and documents; by Mr. Todhunter, 20

giving each editor in the state a copy of the debates; by Mr. Hall, 1026

increasing the compensation of the assistant secretary; by Mr. Gray, 1025

increasing the number of slips of the debates to be furnished to members; by Mr. Marvin, 179

instructing committees to report by a certain time; by Mr. Winchester, 626

limitation of debate; by Mr. Ells, 360

limitation of debate; Mr. Edwards, 500

list of members of the convention, with ages, occupation, &c.; by Mr. Wilson, 23

location of the state capitol and university; by Mr. Skiff, 877

mailing slips of debates to members after the adjournment of the convention; by Mr. Clarke of Johnson, 1003

manner of committees of the convention making their reports; by Mr. Clarke of Henry, 52

meeting of the convention in the court room; by Mr. Gillaspy, 23

meeting of the convention in the senate chamber; by Mr. Gray, 81

mileage of members of the convention; by Mr. Clarke of Alamakee, 986

mileage of members of the convention; by Mr. Hall, 990

night sessions of the convention; by Mr. Gibson, 780, 815

night sessions of the convention; by Mr. Gillaspy, 573

PAGE

number and character of the standing committees of the convention; by Mr. Traer, 19

number and character of the standing committees of the convention; by Mr. Wilson, 10

oath to be taken by members of the convention; by Mr. Todhunter, 8

offering resolutions of enquiry; by Mr. Hall, 48

order of considering reports from committees; by Mr. Hall, 95

paper folder to the convention; by Mr. Hall, 95

per diem of members of the convention; by Mr. Clark of Alamakee, 490

per diem of the president of the convention; by Mr Johnston, 760

personal differences between members of the convention; by Mr. Edwards, 1062

postage of members of the convention; by Mr. Todhunter, 22

presenting a chair to the president of the convention; by Mr. Gray, 1022

printing the constitution in German; by Mr. Clarke of Johnston, 743

printing the constitution in the Holland language; by Mr. Gibson, 815

printing the constitution in the Holland language; by Mr. Hall, 986

printing two thousand copies of the constitution; by Mr. Skiff, 1025

printing the journal; by Mr. Parvin, 742

publication of the debates; by Mr. Winchester, 22

reference of articles of the constitution to their appropriate committees; by Mr. Clarke of Johnson, 28

reference of subjects to committees without debate; by Mr. Warren, 33

rescinding the resolution fixing the time for adjournment *sine die*; by Mr. Todhunter, 991

returning to the secretary of state the documents furnished to members; by Mr. Clark of Alamakee, 990

rules of the convention; by Mr. Gray, 9

sergeant-at-arms summoning members of the convention; by Mr. Skiff, 741

sergeant-at-arms summoning members of the convention; by Mr. Wilson, 741

Digitized by Google

PAGE.

Resolutions, miscellaneous, in relation to—
smoking in the hall of the convention; by Mr. Todhunter, 115
submitting to the people a proposition to strike the word "white" from the constitution; by the special committee on the right of suffrage, 649
suppression of the debate upon the subject of the removal of the convention from Iowa City; by Mr. Clarke of Johnson, 35
time of daily meeting of the convention; by Mr. Winchester, 64
time of daily meeting of the convention; by Mr. Edwards, 118
thanks to the president of the convention; by Mr. Johnson, 1022
thanks to the officers of the convention; by Mr. Hall, 1024
thanks to the reporters of the convention; by Mr. Clarke of Johnson, 1034
thanks to T. J. Saunders, the secretary of the convention; by Mr. Harris, 1028
Restrictions in laws in relation to banking, 96, 392, 420, 427
Right of suffrage; appointment of standing committee upon, 10, 19, 21
petitions concerning negroes and mulattoes referred to standing committee upon, 115, 216
resolutions of enquiry referred to standing committee upon, 45, 47
report from standing committee upon, 36
third reading of article upon, 1008
yeas and nays upon the final passage of the article upon, 1008
Right of suffrage; appointment of special committee upon, 219

remarks of—

Mr. Clarke of Henry, 218
Edwards, 218
Gillaspy, 218
Hall, 218
Harris, 218
Palmer, 218
Warren, 218

Right of suffrage; printing of the reports of the special committee upon, 654

remarks of—

Mr. Bunker, 655
Clarke of Henry, 655
Clarke of Johnson, 654
Edwards, 656
Gillaspy, 654
Harris, 655
Johnston, 656
Palmer, 657
Wilson, 655
Winchester, 654
Young, 655

Right of suffrage; resolution reported from the special committee upon, 649, 664, 888 915

remarks of—

Mr. Bunker, 908, 909
Clarke of Alamakee, 709
Clarke of Henry, 667, 676
Clarke of Johnson, 665, 666, 675, 680 888
Edwards, 680, 691
Ells, 672, 675, 691, 905
Gibson, 694
Gillaspy, 915
Gower, 680
Hall, 687
Harris, 905
Marvin, 672, 676
Parvin, 699, 912
Peters, 980, 915
Scott, 641
Winchester, 915

Roads; private property taken for the use of, 97, 126

remarks of—

Mr. Clark of Alamakee, 126, 127, 128
Clarke of Johnson, 128
Gillaspy, 127
Hall, 128
Harris, 126, 128
Todhunter, 127
Traer, 128

Roads; resolution of enquiry in relation to the assessment of taxes for, 48
legislature to pass no special laws for the assessment and collection of taxes for, 84 531
resolution of enquiry in relation to vacating, 48
legislature to pass no special laws for vacating, 84, 531

Digitized by Google

PAGE

ROBINSON, M. W.
appointed upon the standing committee upon miscellaneous subjects, 22
credentials of, 6
mileage of, 1026
offered an amendment concerning time of elections, 805
offered a resolution that Mr. Peters be appointed upon the standing committee upon the preamble and bill of rights, and the standing committee upon the schedule, 96
Rules of the convention; appointment of a special committee to draft, 10
report of committee to draft, 20
two hundred copies ordered to be printed of the, 23
previous notice required of amendment of the, 26
notice given of proposed amendments to the, 64, 87, 118
resolution in relation to amendment of the, 48

remarks of—

Mr. Clarke, of Henry, 48
Hall, 49
Traer, 49
Wilson, 49

S

Sabbath; petitions in relation to the passage of laws for the observance of the Christian Sabbath, 47, 861
Salaries; resolution of enquiry in relation to, 48
Salary of attorney general, 550, 554
of auditor of state, 84, 550, 553, 578
of district judges, 84, 116, 478, 504 550, 555, 578

remarks of—

Mr. Clark of Alamakee, 480, 489
Clarke of Henry, 480, 485, 489, 491 493, 505, 507
Clarke of Johnson, 479, 481, 485, 487 489, 491 493, 505
Day, 488, 504
Edwards, 488
Ells, 487
Emerson, 486
Gibson, 481
Gillaspy, 480, 482, 493, 506
Gray, 481, 504, 505, 506
Hall, 480, 481, 483, 484 486, 491, 505, 506 507
Harris, 479, 483, 484
Marvin, 482, 483
Patterson, 505
Peters, 485, 487
Solomon, 506
Traer, 479, 483
Wilson, 479, 481, 490, 491 493, 506
Winchester, 481
Salary of the governor, 84, 550, 555, 578
Salary of the lieutenant governor, 597

remarks of—

Mr. Clarke of Henry, 597, 598
Palmer, 597
Scott, 598
Traer, 597, 598
Salary of the secretary of state, 84, 550, 555 578
Salary of the supreme judges, 84, 116, 259 478, 504, 550, 555 578

remarks of—

Mr. Clark of Alamakee, 480, 489
Clarke of Henry, 480, 485, 489, 491 493, 505, 507
Clarke of Johnson, 479, 481, 485, 487 489, 491, 493, 506
Day, 488, 504
Edwards, 488
Ells, 487
Emerson, 486
Gibson, 481
Gillaspy, 480, 482, 493, 506
Gray, 481, 504, 505, 506
Hall, 480, 481, 483, 485 486, 491, 505, 506 507
Harris, 479, 483, 484
Marvin, 482, 483
Patterson, 505
Peters, 485, 487
Solomon, 506
Traer, 479, 483
Wilson, 479, 484, 490, 491 493, 506
Winchester, 481
Salary of the treasurer of state, 84, 550, 578

Digitized by Google

PAGE.

Saunders, Thomas J., appointed secretary *pro tem.* 5
elected permanent secretary, 7
appointed to superintend the publication of, and to index the journal, 742, 814
directed to prepare an enrolled copy of the journal to be deposited in the office of secretary of state, 758
compensation for superintending the publication of, and indexing the journal, 985 1005
compensation for enrolling the journal, 877
rate of *per diem* of, 759
amount of *per diem* of, 1059
resolution of thanks to, 1028
Schedule; appointment of standing committee upon, 10, 19, 22
resolution of enquiry referred to standing committee upon, 22
report from standing committee upon, 914
third reading of article upon, 995
yeas and nays upon final passage of article upon, 1084

remarks of—

Mr. Gillaspy, 1036, 1037
Hall, 1037, 1040, 1041
Harris, 1038, 1039, 1042 1043, 1044, 1045 1046, 1048
Johnston, 1037, 1047
Palmer, 1037, 1038
Parvin, 1041
Patterson, 1047
Todhunter, 1037
Wilson, 1036, 1037, 1038 1039, 1041, 1042 1043, 1044, 1045 1046

Scholte, Henry B., employed to translate and print the constitution in the Holland language, 973, 986
compensation for translating and printing the constitution in the Holland language, 1050
School districts, length of schools to be kept in, 78, 770, 816, 825

remarks of—

Mr. Clark of Alamakee, 818, 821, 822
Ells, 818
Gibson, 770, 816, 823

PAGE

Gillaspy, 824
Gower, 816
Hall, 819, 822, 824
Harris, 817, 822
Marvin, 819
Palmer, 823
Scott, 817
Skiff, 816, 818
Todhunter, 816, 817, 822
Traer, 819
School fund; resolution of inquiry in relation to, 40, 47, 48
agents of, 79, 772, 967
disposition of, and manner of using, 78 744, 771, 825, 967 972, 991, 1001

remarks of—

Mr. Clarke of Henry, 848, 1002
Clarke of Johnson, 994
Gillaspy, 849, 993, 994
Gower, 744, 772, 850, 1001
Hall, 772, 994, 1001
Harris, 848
Johnston, 836, 847, 850
Marvin, 1001
Palmer, 846
Skiff, 847
Solomon, 848, 972, 992, 1003
Todhunter, 849
Traer, 847, 1001, 1003
Wilson, 993
School fund to be guaranteed all losses by fraud or mismanagement of state offices, 272 277

remarks of—

Mr. Clark of Alamakee, 378
Clarke of Henry, 279
Clarke of Johnson, 277, 278
Gower, 277
Hall, 273, 278
Johnston, 279
Skiff, 277, 278
Young, 279
School fund; when school districts may be deprived of their share of, 78, 770, 816, 825

remarks of—

Mr. Clark of Alamakee, 818, 821, 822
Ells, 818
Gibson, 770, 816, 823
Gillaspy, 824

Digitized by Google

PAGE.

Gower, 816
Hall, 819, 822, 824
Harris, 817, 822
Marvin, 819
Palmer, 823
Scott, 817
Skiff, 816, 818
Todhunter, 816, 817, 822
Traer, 819

School fund; appointment of select committee upon, 781
report of select committee upon, 1001
real estate of banking corporations to escheat to, 97, 413
School lands; appointment of standing committee upon education and, 10, 19, 22
resolutions of enquiry referred to standing committee upon education and, 40, 47
report of standing committee upon education and, 78
recommitting of report to standing committee upon education and, 853
second report from committee on education and, 871
third reading of the article upon education and, 1028
yeas and nays upon the final passage of the article upon education and, 1030
Schools; age of scholars, 78, 842
taxes for school houses and, 841
chancellor of, 78, 770, 837
Schools, establishment of a system of, 78, 770 816, 825, 953

remarks of—

Mr. Clarke of Henry, 828, 829
Clarke of Johnson, 826, 827, 823
Edwards, 834
Ells, 818, 830, 832, 968, 971
Gibson, 770, 816, 832
Gillaspy, 824, 825, 826 827, 829, 832, 833
Gower, 816, 830
Hall 827, 830, 831, 835
Marvin, 727, 825, 837
Parvin, 835
Scott, 830, 831
Skiff, 828, 830
Wilson, 953, 965, 969

Schools to be free of charge, 968

remarks of—

Mr. Clarke of Henry, 970
Ells, 958, 971
Gillaspy, 968
Hall, 968, 969
Marvin, 968, 969
Parvin, 971
Skiff, 969
Traer, 970, 971
Wilson, 969

Schools; to be kept up in each school district three months, 78, 770, 816

remarks of—

Mr. Clark, of Alamakee, 818, 821, 822
Gibson, 770, 816, 823
Gillaspy, 824
Gower, 816
Hall, 819, 822, 824
Harris, 817, 822
Marvin, 819
Palmer, 823
Scott, 817
Skiff, 816, 818
Todhunter, 816, 817, 822
Traer, 819

SCOTT, ALPHEUS,
appointed upon the standing committee upon state debts, 22
credentials of, 6
mileage of, 1026

remarks upon—

adjournment *sine die*, on fourth of March, 502
age of governor and lieutenant governor, 580, 581
adding two members to the committee on accounts and expenditures, 959
board of education; powers of, 944, 949
city and county indebtedness, 413, 422
classification and number of senators, 518 519
common school system, 830, 831
compensation of board of education 955
compensation of the lieutenant governor, 598
competency of witnesses, 725
county seats and boundaries, 533
counties; size of, 799, 800
courts; number of, 435
expenses of the board of education, 966
furnishing members with the reports of the supreme court, 90
indebtedness of cities and counties, 313, 422
indebtedness of the state; limitation of, 271

Digitized by Google

PAGE.

SCOTT, ALPHEUS,

remarks upon—

jury trial, 119
liability of bank officers, 789
lieutenant governor; salary of, 598
limitation of debate, 501
limitation of state indebtedness, 271
location of county seats and boundaries, 533
number of courts, 435
number and classification of senators, 518 519
postage of the convention, 1050
postage upon future mail matter of the convention, 1055
powers of the board of education, 944, 949
printing the constitution in German, 976
private property taken for public uses, 504
provision to confine schools to unmarried persons, 842
punishment of frauds in banking, 392
repeal of incorporations, 104
report of the committee on future amendments to the constitution, 606
residence of voters, 865
salary of the lieutenant governor, 598
scholars in common schools to be unmarried, 842
schools in each school district, 817
senators; number and classification of, 518, 519
size of counties, 799, 800
state bank and branches, 390
state indebtedness; limitation of, 271
striking the word "white" from the article on militia, 641
system of common schools, 830, 831
term of school in each school district, 817
trial by jury, 819
"unmarried"; striking from the provision upon common schools, the word, 842
voters; residence of, 865
"white"; striking from the article on militia the word, 641

Second messenger; George Clearman appointed *pro tem*, 5
George Clearman elected, 8
rate of *per diem* of, 760
amount of *per diem* of, 1050
Willis Conrad nominated for, 8

Secretary of the convention; Thomas J. Saunders appointed *pro tem*, 5
Thomas J. Saunders elected, 7
Philip B. Bradley nominated for, 7
authorized to make arrangements for the payment of the postage of members and officers of the convention, 22
resolution in relation to making up the journal of the, 64, 85
appointed to superintend the publication of, and to index the journal, 742, 814
directed to prepare an enrolled copy of the journal to be deposited in the office of the secretary of state, 758
compensation for superintending the publication of, and indexing the journal, 985 1005
compensation for enrolling the journal, 877
rate of *per diem* of, 759
amount of *per diem* of, 1050
resolution of thanks to, 1028

Secretary of state; duties of, 75, 588, 596
impeachment of, 83, 527, 551
salary of, 84, 550, 555, 578
term of office of, 77, 588
first election under the new constitution of, 914, 916
compensation for distributing Greene's reports, 1049
compensation for distributing the debates, 1005

Security of corporations for banking, 96, 344 362, 419, 775, 789

remarks of—

Mr. Clarke of Henry, 347, 350, 353 358, 359, 779
Clarke of Johnson, 346, 791, 792
Edwards, 344, 346, 351, 789
Ells, 347, 348
Emerson, 356
Gibson, 354
Gillaspy, 350, 363, 794
Gower, 363
Hall, 346, 348, 350, 353 353, 357, 359, 774
Harris, 775
Johnston, 347
Parvin, 347, 354
Peters, 357
Skiff, 346
Solomon, 349, 791
Wilson, 355, 358, 775, 789

Digitized by Google

PAGE.

SEELY, THOMAS.

appointed upon the standing committee upon the executive department, 21
appointed upon the special committee upon the basis of representation, 74
credentials of, 6
mileage of, 1026
offered a resolution of enquiry in relation to the basis of representation, 64
Senatorial districts; formation of, 84, 549
Senators; age of, 30, 83, 516, 567
apportionment of representatives and, 84, 540, 552, 1011, 1013

remarks of—

Mr. Clarke of Henry, 1015, 1016
Clarke of Johnson, 1013, 1014, 1015
Marvin, 1016
Skiff, 1011
Traer, 540, 1014, 1015
Wilson, 1015
Senators; classification and number of, 88, 518, 551

remarks of—

Mr. Gillaspy, 520
Gower, 520
Harris, 518, 520, 523
Johnston, 523
Palmer, 517
Parvin, 516, 517, 519
Scott, 518, 519
Traer, 516, 517, 520, 522, 523
Young, 516, 521
Senators; term of office of, 83, 516
time of electing, 83, 516
first election under the new constitution, 914, 977
term of office under new constitution of present, 914, 977
Sergeant-at-arms of the convention; S. C. Trowbridge appointed *pro tem*, 5
S. C. Trowbridge elected permanent, 7
resolution in relation to the summoning of members by the, 741
rate of *per diem* of, 759
amount of *per diem* of, 1050
D. F. Gaylord nominated for, 7
Servitude, involuntary; not permitted in this state, except for the punishment of crimes, 100, 138, 209

PAGE.

Sessions of the general assembly to be biennial, 82, 510, 588

remarks of—

Mr. Clarke of Henry, 513, 560, 562, 563
Clarke of Johnson, 561
Edwards, 511
Gibson, 511, 561
Gillaspy, 566
Gower, 510, 566
Hall, 510, 512, 559
Harris, 511, 513, 564
Marvin, 512, 566
Palmer, 510, 511
Parvin, 510, 559
Traer, 560
Wilson, 563
Winchester, 562
Sessions of the board of education; number and length of, 78, 768, 816, 938

remarks of—

Mr. Clarke of Alamakee, 825
Hall, 759
Johnston, 769
Marvin, 768, 769
Skiff, 769
Todhunter, 769
Size of counties, 216, 294, 648, 798

remarks of—

Mr. Clarke of Henry, 800
Clarke of Johnson, 798, 800
Emerson, 800
Scott, 799, 800

SKIFF, HARVEY J.

appointed upon the standing committee upon militia, 22
appointed upon the standing committee upon incorporations, 22
appointed upon the special committee on the right of suffrage, 219
appointed upon the standing committee upon the schedule, 648
appointed upon the committee to procure the printing of two thousand copies of the constitution, 1025
credentials of, 6
made a report from the standing committee on militia, 629
mileage of, 1026

Digitized by Google

PAGE.

SKIFF, HARVEY J.

moved the appointment of a special committee on the right of suffrage, 217

moved the previous question upon the publication of the debates, 59

offered a resolution in relation to the summoning of members by the sergeant-at-arms, 741

offered a resolution concerning the printing of two thousand copies of the constitution, 1025

offered a resolution in relation to the location of the state capitol and university,

remarks upon—

age of governor and lieutenant governor, 580

age of members of the board of education, 768

age of persons to serve in the militia, 461

apportionment of representation, 1011

banking under general law, 346

board of education, 731, 755

city and county indebtedness, 290, 311, 415 425, 427, 808

common school system, 828, 830

common schools to be free of charge, 969

compensation of the board of education, 958

competency of witnesses and religious tests, 172

conduct of first messenger, 275, 276

courts, number of, 228, 229

criminal prosecutions; manner of conducting, 201

denizens; persons not citizens, other than foreigners, 134

disposition of the school fund, 847

distribution of the debates, 764, 917 920, 1004

distribution of the rules and regulations of the board of education, 938

drawing seats in the senate chamber, 82

eligibility to office, 812

expenses of the board of education, 953

extra sessions of the general assembly, 583

filling vacancies in the office of governor, 587

first election of supreme judges under the new constitution, 995

first messenger; conduct of, 275, 276

PAGE.

general banking, 346

giving each editor in the state a copy of the debates, 1027

guaranteeing to school and university funds against losses by the fraud or mismanagement of state officers, 277, 278

holding night sessions of the convention, 815

indebtedness of the state; limitation of, 265

judicial districts; number of, 631

jurisdiction of justices of the peace, 795

length of sessions of board of education, 769

limitation of debate, 361, 362

limitation of state indebtedness, 265

location of state capitol and university 839

making common schools free of charge, 969

manner of conducting criminal prosecutions, 201

natural rights of man, 732

night sessions of the convention, 815

number of courts, 228, 229

number of judicial districts, 631

number of the board of education, 767, 768

number and length of the sessions of the board of education, 769

oath to be taken by members of the convention, 8, 9

order of business, 720, 732, 878, 879

personal and general explanations, 106

postage upon future mail matter of the convention, 1056

power of the governor to call extra sessions of the general assembly, 583

preferred creditors of banks, 396, 397, 399

printing the reports of the special committee on the right of suffrage, 657

printing the journal and constitution, 975 976, 978

punishment of frauds in banking, 392

re-committing the report of the committee on education and school lands to that committee, 854

reference of resolution of enquiry, 81

religious tests and competency of witnesses, 172

repeal of incorporations, 164, 168, 407, 408

repeal of laws in relation to banking, 404

resolution of enquiry in relation to city and county indebtedness, 43

Digitized by Google

PAGE.

resolution of enquiry in relation to banking, 39
school fund; disposition of, 847
schools in each school district, 816, 818
schools to be free of charge, 969
sessions of the board of education, 769
state indebtedness; limitation of, 265
striking the word "white" from the constitution, 664, 665
submission of laws to the people, 802, 803, 804
system of common schools, 828, 830
term of office of governor and lieutenant governor, 586
term of school in each school district, 816, 818
university and capitol; location of, 839
vacancy in the office of governor, 587
"white;" striking from the constitution the word, 664, 665
Slavery; prohibited in this State, 100, 138
action of political parties in relation to the question of, 680, 888, 915

remarks of—

Mr. Bunker, 909
Clark of Alamakee, 709
Clarke of Johnson, 888
Edwards, 680
Ells, 905
Gibson, 694
Hall, 687
Harris, 905
Parvin, 699
Winchester, 915
Slips of debates to be furnished to members, 26, 53, 68, 179

remarks —so

Mr. Bunker, 29
Clarke of Alamakee, 29, 69, 70, 72
Clarke of Johnson, 69
Edwards, 68, 71
Gillaspy, 70, 72
Gower, 28, 29, 73
Hall, 29, 68, 70, 73
Harris, 28, 68, 70, 178
Marvin, 179
Palmer, 28, 29, 89
Parvin, 70
Traer, 28, 71
Wilson, 71
Winchester, 29
Young, 28, 29

PAGE

Soldiers; not to be quartered in the houses of private citizens without their consent in time of peace, 99, 126, 202

SOLOMON, D. H.

appointed upon the standing committee on the judicial department, 22
appointed upon the select committee upon the basis of representation, 74
appointed upon the committee to superintend the reporting and printing the debates, 174
credentials of, 6
mileage of, 1026
offered a resolution of enquiry concerning the issuing of paper money, 39
offered a resolution of enquiry concerning the prohibition of articles of manufacture and sale, 39
offered a resolution of enquiry concerning the age of state officers, 47

remarks upon—

appointment of special committee upon the basis of representation, 63
age of governor and lieutenant governor, 580
age of members of the board of education, 768
adjournment *sine die* on the fourth of March, 502
banking under general laws, 349, 791
basis of representation, 546, 549, 557, 578, 579
board of education, 722, 725, 767
city and county indebtedness, 311, 776, 778
compensation of the chaplain, 760
contracts for state indebtedness in certain cases to be void, 284
county seats and boundaries, 534
courts; number of, 252, 467, 470
criminal prosecutions; manner of conducting, 122
disposition of the school fund, 848, 972, 992, 1003
distribution of the debates, 762, 764, 918, 920
dividing the state into judicial districts, 876
election of board of education, 768
exclusive jurisdiction of the United States over territory in Iowa, 210, 211

Digitized by Google

PAGE.

SOLOMON, D. H.

remarks upon—

extra sessions of the general assembly, 583, 584, 585
furnishing members with the reports of the supreme court, 92
general assembly; residence of members of, 567, 570, 571, 572
general banking, 394, 791
holding night sessions of the convention, 573
indebtedness of cities and counties, 311, 776, 778
indebtedness of the State; limitation of, 271
judges; salaries of, 506
judicial districts; plan of, 876
jurisdiction of the United States over territory in Iowa, 210, 211
limitation of state indebtedness, 271
location of county seats and boundaries, 534
location of the state university, 771
manner of conducting criminal prosecutions, 122
mileage of members of the convention, 989
Mills county, incorporation into sixth judicial district, 1000
night sessions of the convention, 573
number of copies of the debates to be published, 56
number of courts, 252, 467, 470
number of members of board of education, 767, 768
number of senators and representatives, 541, 542
order of business, 221, 518, 884
power of governor to call extra sessions of the general assembly, 583, 584, 585
preferred creditors of banks, 403
printing the journal and constitution, 983
printing the reports of the special committee on the right of suffrage, 657
prohibition of articles of manufacture and sale, 139, 209
prosecuting attorneys, 456, 476
publication of the debates, 56
punishment of frauds in banking, 393
repeal of incorporations, 161
report of the committee on future amendments to the constitution, 611, 1031
representatives and senators; number of, 541, 542

PAGE

residence of members of the general assembly, 567, 570, 571, 572
residence of voters, 861
salaries of judges, 506
school fund; disposition of, 848, 972, 992, 1003
school and school houses; taxes for, 841
senators and representatives; number of, 541, 542
special committee on basis of representation, 63
state bank, 390
state indebtedness; limitation of, 270
state university; location of, 771
taxes for schools and school houses, 841
term of office of the governor, 590
United States; jurisdiction over territory in Iowa of, 210, 111
university; location of, 771
voters; residence of, 861
Speaker of the house of representatives; to sign bills that pass the general assembly, 83, 525
when to act as governor, 77, 587
Special committees, appointment of; on the basis of representation, 63, 74

remarks of—

Mr. Clarke of Henry, 63
Hall, 62
Harris, 62, 63
Johnston, 62
Parvin, 63
Solomon, 63
Traer, 63

Special committee upon the bill of rights; appointment of, 223

remarks of—

Mr. Bunker, 223, 225
Clarke of Henry, 223, 224
Hall, 223, 224, 225
Harris, 224
Johnston, 223, 226
Marvin, 226
Parvin, 224
Patterson, 225
Todhunter, 223
Wilson, 224

Special committee to ascertain the delay in the publication of the debates, 496
on the distribution of the debates, 766, 780
on the printing and distribution of the journal, 815

Digitized by Google

PAGE

Special committee upon incorporations; appointment of,

remarks of—

Mr. Clarke of Henry, 429
Parvin, 785
Winchester, 785

Special committee upon the right of suffrage; appointment of,

remarks of—

Mr. Clarke of Henry, 218
Edwards, 218
Gillaspy, 218
Hall, 218
Harris, 218
Palmer, 218
Warren, 218

Special laws; provision in relation to the passage of, 47, 84, 531, 551, 575
time of taking effect of, 551

Special privileges and immunities; repeal, 104, 143, 407, 420 469

remarks of—

Mr. Bunker, 165
Clark of Alamakee, 106, 107, 111 113, 114, 150, 401
Clarke of Henry, 104, 110, 111, 115 152, 154, 165, 168, 412
Clarke of Johnson, 105, 108, 145, 158 160, 161, 408, 409
Day, 406
Edwards, 150
Harris, 109, 114, 156, 162, 407
Palmer, 104, 105, 111, 411, 412
Parvin, 109
Peters, 144, 145
Price, 151
Scott, 104
Skiff, 164, 168, 407, 408
Solomon, 161
Traer, 145, 409
Wilson, 105, 106, 107, 111 114, 153, 154, 155 160, 161, 407, 408, 409
Winchester, 158

Special sessions of the legislature; provision in relation to, 77, 583

Specie to be the basis for state bank, 97, 373 709, 785

Specie payments; suspension by banks of, 97, 403, 427

remarks of—

Mr. Palmer, 403
Traer, 403

Speech, freedom of; provision in relation to, 99, 118, 201

SPRINGER, FRANCIS,

appointed upon committee upon the subject of the removal of the convention from Iowa City, 6
credentials of, 6
mileage of, 1026
elected president of the convention, 6
remarks upon taking the chair as president of the convention,
remarks upon announcing the adjournment of the convention *sine die*, 1065
resolution of thanks to, 1022

Standing army; in time of peace to be no, 99, 226, 202
in time of war; appropriations to be for not more than two years, 99, 126, 202

Standing committees; appointment of, 16 19, 21, 22
appointed as follows upon:
amendments to the constitution, 22
bill of rights, 21
education and school lands, 22
executive department, 22
incorporations, 22
judicial department, 22
legislative department, 22
militia, 22
miscellaneous subjects, 22
right of suffrage, 21
schedule, 22
state debts, 21

State; not to become stockholder in banking corporations, 96, 289, 648, 775
location of public lands by the, 648, 801 811

remarks of—

Mr. Clark of Alamakee, 811
Clarke of Johnson, 801
Hall, 801
Price, 801

State; residence of the governor and lieutenant governor in, 77, 580
residence of members of the general assembly in, 83, 516, 557

Digitized by Google

PAGE.

residence of voters in, 36, 860
to have power to contract debts to repel invasion, suppress insurrection and defend the state in t me of war 52, 273
State bank ; resolution of enquiry in relation to, 38
mutual liability of branches of, 97, 391 419
provision in relation to, 96, 373, 419 649, 785, 859

remarks of—

Mr. Clarke of Henry, 387, 389
Clarke of Johnson, 373, 859
Edwards, 380
Ells, 381, 382, 384, 389
Gibson, 374
Gower, 373; 374, 377,
Hall, 373, 374, 386, 389
Harris, 375, 383, 389
Parvin, 373, 385
Scott 360
Solomon, 390
Traer, 373
Wilson, 884, 385, 785, 859
Young, 382
State boundaries, 99, 141, 648, 800

remarks of—

Mr. Edwards, 141, 142
Gower, 141, 143
Hall, 141, 142
Harris, 148
Palmer, 141, 142
Wilson, 141
State capitol ; location of, 88, 877, 922, 1017

remarks of—

Mr. Bunker, 934
Clark, of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 926
Edwards, 877, 930
Gibson, 971, 840
Gillaspy, 877
Gower, 125, 922,
Hall, 877, 931
Harris, 926
Palmer, 877, 933
Skiff, 839
Traer, 1017
State census ; provision in relation to taking the, 30, 84, 540, 1011

PAGE

State colonization society ; allowed the use of the convention hall, 34
State debts ; appointment of a standing committee upon, 10, 19, 21
resolution of enquiry in relation to city and county indebtedness referred to, 34
report of standing committee upon, in relation to city and county indebtedness, 50
report of standing committee upon article upon state debts, 52
third reading of article upon, 1022
yeas and nays upon the final passage of the article upon, 1024
State historical society; communications from, 828, 574
State indebtedness beyond constitutional limitation to be void, 273, 280

remarks of—

Mr. Clarke of Johnson, 273, 281, 282
Hall, 275, 282
Harris, 274, 281
Marvin, 283
Palmer, 274, 281, 283
Parvin, 280
Solomon, 284
Traer, 280
Wilson, 232, 283
State indebtedness ; provision in relation to the limitation of, 260, 376

remarks of—

Mr. Bunker, 271
Clarke of Henry, 266, 267, 268, 272
Clarke of Johnson, 267, 272, 277
Edwards, 265
Gibson, 263, 270
Gillaspy, 261, 262. 268
Gower, 261, 267
Hall, 268
Harris, 269, 270, 271
Johnston, 267
Palmer, 270, 272, 277
Parvin, 261, 264, 265, 272
Patterson, 268
Scott, 271
Skiff, 265
Solomon, 271
Todhunter, 272
Traer, 262, 264, 265, 268, 270
Wilson, 261, 263, 264, 265, 266
Winchester, 265, 270

Digitized by Google

PAGE.

State seal; to be used by the governor, 77, 588
commissions and grants to be sealed with, 77, 588
State taxes resolution of enquiry in relation to the assessment and collection of, 48
the legislature to pass no special laws for the assessment and collection of, 84, 531
State university; location of, 40, 47, 648 770, 801, 811, 824 838, 877, 992, 1017

remarks of—

Mr. Bunker, 934
Clark of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 828, 926
Edwards, 877, 930
Gibson, 771, 840
Gillaspy, 877
Gower, 770, 922, 925,
Hall, 877, 931
Harris, 926
Johnston, 801
Palmer, 877, 933
Skiff, 789
Solomon, 771
Todhunter, 816, 817, 822
Traer, 1017
Winchester, 801, 839, 1017

Stockholders in banks; liabilities of, 95, 363 419, 785

remarks of—

Mr. Clark of Alamakee, 370, 371, 786
Clarke of Henry, 364, 368, 380, 789
Clarke of Johnson, 363, 364, 366, 789
Emerson, 786
Marvin, 788
Palmer, 372, 786, 787
Parvin, 785, 788
Scott, 785
Traer, 787, 788, 789
Wilson, 363, 370

Stocks as security for banks, 96, 344, 775
amount of to be recorded, 96, 344, 775
depreciation of, 96, 344, 775
transfer of to be recorded, 96, 344, 775

Streets; resolution of enquiry in relation to the opening of, 48
the legislature to pass no special laws for the opening of, 84, 531

PAGE.

Students; provision in relation to the voting of, 665, 868
Style of laws, ~~89, 510,~~ 558
Style of process, 160, 260, 457, 477
Submission of laws to the people, 140 801, 811

remarks of—

Mr. Clarke of Henry, 802
Gower, 804
Gray, 801, 803
Hall, 802, 804
Harris, 804
Marvin, 802
Skiff, 802, 803, 804
Wilson, 804

Submission of laws to the people in relation to banking, 97, 405, 420, 649, 773

remarks of—

Mr. Clark of Alamakee, 773
Parvin, 773

Submission of laws to the people in regard to the changing of county seats and boundaries, 556

Submission of laws to the people in regard to indebtedness on the part of the State, 53, 273, 279

Suffrage, right of; appointment of standing committee upon, 10, 19, 21
petitions concerning negroes and mulattoes referred to standing committee upon, 115, 216
resolutions of enquiry referred to the standing committee upon, 45, 47
report from the standing committee upon, 36
third reading of the article upon, 1008
yeas and nays upon the final passage of the article upon, 1008

Suffrage, right of; appointment of a special committee upon, 218

remarks of—

Mr. Clarke of Henry, 218
Edwards, 218
Gillaspy, 218
Hall, 218
Harris, 218
Palmer, 218
Skiff, 218
Warren, 218

Digitized by Google

PAGE.

Suffrage, right of; printing the reports of the special committee upon, 654

remarks of—

Mr. Bunker, 655
Clarke of Henry, 655
Clarke of Johnson, 654
Edwards, 656
Gillaspy, 654
Harris, 655
Johnston, 656
Palmer, 657
Wilson, 655
Winchester, 654
Young, 655

Suffrage, right of; resolution reported from the special committee upon, in relation to striking the word "white" from the constitution, 649, 664, 888, 915

remarks of—

Mr. Bunker, 908, 909
Clark of Alamakee, 709
Clarke of Henry, 667, 676
Clarke of Johnson, 665, 666, 675, 680 888
Edwards, 680, 691
Ells, 672, 675, 691, 905
Gibson, 694
Gillaspy, 915
Gower, 680
Hall, 687
Harris, 905
Marvin, 672, 676
Parvin, 699, 912
Peters, 680, 915
Scott, 641
Winchester, 915

Summoning of grand and petit jurors; resolution of enquiry in relation to, 48

Superintendent of public instruction; impeachment of, 83
term of office of, 77, 588
abolition of office of, 585, 596

Supervisors, township; resolution of enquiry in relation to appointment and election of, 48

Suppression of debate upon the subject of the removal of the convention from Iowa City, 35

remarks of—

Mr. Clark of Alamakee, 35
Clarke of Johnson, 35
Gillaspy, 35
Hall, 35
Johnston, 35
Traer, 35
Young, 35

Supreme court, judges of; classification of, 115, 259, 449, 472
first election under the new constitution of, 914, 995, 996
impeachment of, 83, 527, 551, 574
jurisdiction of, 116, 259, 449
manner of electing, 115, 259, 409
number of, 115, 259, 446, 462

remarks of—

Mr. Bunker, 464
Clark of Alamakee, 463
Clarke of Henry, 448, 463, 466
Clarke of Johnson, 447, 448, 462, 465
Gillaspy, 462
Hall, 446, 447, 463, 466
Harris, 463
Palmer, 447, 448
Traer, 462
Wilson, 449, 451

Supreme court; reporter of, 116, 266

Supreme court, judges of; salary of, 84, 116 259, 478, 504, 550 555, 578

remarks of—

Mr. Clark of Alamakee, 480, 489
Clarke of Henry, 480, 485, 489, 491 493, 505, 507
Clarke of Johnson, 479, 481, 485, 487 489, 491, 495, 506
Day, 488, 504
Edwards, 488
Ells, 487
Emerson, 486
Gibson, 481
Gillaspy, 480, 482, 493, 596
Gray, 481, 504, 505, 506
Hall, 480, 481, 483, 484 486, 491, 505, 506 507
Harris, 479, 483, 484
Marvin, 482, 483
Patterson, 505
Peters, 485, 487
Solomon, 506
Traer, 479, 483
Wilson, 479, 484, 490, 491 493, 506
Winchester, 481

Digitized by Google

PAGE.

Supreme court, judges of; term of office of, 115, 259, 449, 471
trial of judges of, 116, 260, 457
Supreme court reports; supplying members of the convention with, 88

remarks of—

Mr. Clarke of Alamakee, 91, 93
Clarke of Henry, 89, 93
Clarke of Johnson, 88, 89, 90
Edwards, 88, 89, 93
Emerson, 88
Gower, 88
Hall, 88, 89, 91, 92, 93
Harris, 88, 89, 92
Johnston, 94
Palmer, 88, 89
Scott, 90
Solomon, 92
Todhunter, 89
Traer, 91, 92, 93
Winchester, 90
Young, 90

Supreme Court reports by Judge Greene; purchase of, 10, 51

remarks of—

Mr. Clark of Alamakee, 1052, 1053
Clarke of Johnson, 1051; 1052, 1053
Hall, 1052
Harris, 1053
Johnston, 1052, 1053. 1054
Todhunter, 1053
Traer, 1053, 1054

Suspension of the writ of habeas corpus, 99, 125, 202
Suspension of specie payments by banks, 97, 403, 427
System of schools to be established by the board of education, 78, 770, 816, 825, 953

remarks of—

Mr. Clarke of Henry, 828, 829
Clarke of Johnson, 826, 827, 833
Edwards, 834
Ells, 818, 830, 832, 968, 971
Gibson, 770, 816, 823
Gillaspy, 824, 825, 826
827, 829, 832, 833
Gower, 816, 830
Hall, 827, 830, 831, 835
Marvin, 825, 727, 837
Parvin, 835
Scott, 830, 831
Skiff, 828, 830
Wilson, 953, 965, 969

T

Taking effect of the laws, 84, 529, 551
Taxation; resolution in relation to the appointment of a standing committee upon, 10
Taxation of corporations, 38, 96, 289, 415
Taxes; resolution of enquiry in relation to the assessment and collection of, 48
legislature to pass no special laws for the assessment and collection of, 84, 531
Taxes for schools and school-houses, 841
Teesdale, John; employed to print one hundred copies of the old constitution for the use of the convention, 11, 20
employed to print two hundred copies of the rules of the convention, 23
employed to do the incidental printing of the convention, 24
rate of compensation for printing, 1051
Temporary courts for the trial of judges and state officers, 116, 457
Temporary vacancies in the office of judge of the district court, 459
Term of office of attorney general, 77, 588
auditor of state, 77, 588
judges of the district court, 115, 259
455, 472

remarks of—

Mr. Clarke of Alamakee, 474
Clarke of Johnson, 472, 473
Gillaspy, 472, 473

Term of office of judges of the supreme court, 115, 259, 446, 462, 471
of governor and lieutenant governor, 39, 76
579, 586, 590, 591

remarks of—

Mr. Clarke of Henry, 586
Gillaspy, 590
Hall, 580
Palmer, 580
Skiff, 586
Solomon, 590
Wilson, 586

Term of office of members of the house of representatives, 83, 514, 550
of members of the board of education, 78
768, 816, 937

Digitized by Google

PAGE.

of secretary of state, 77, 588
of senators, 83, 516
of superintendent of public instruction, 77, 588
of treasurer of state, 77, 588
Term of residence of the governor and lieutenant governor, 77, 580
of the members of the general assembly, 83, 516, 557, 567, 1015

remarks of—

Mr. Clark of Alamakee, 569, 573
Clarke of Henry, 568
Clarke of Johnson, 568, 1015
Edwards, 571
Gillaspy, 557, 569, 571
Gower, 568
Gray, 567
Parvin, 571
Solomon, 567, 570, 571, 572
Traer, 557, 558, 572
Term of residence of voters, 36, 860, 870

remarks of—

Mr. Clark of Alamakee, 860, 862
Clarke of Henry, 863, 868, 870
Clarke of Johnson, 860, 861
862, 864, 870
Gibson, 867
Gillaspy, 860
Harris, 860, 864, 867
Marvin, 867
Palmer, 867
Price, 863
Scott, 865
Solomon, 861
Testimony; character of, 99, 172
179, 651, 734

remarks of—

Mr. Bunker, 199
Clarke of Alamakee, 199
Clarke of Henry, 172, 174, 179, 184
185, 198, 200, 734
Clarke of Johnson, 178, 196, 734, 735
Edwards, 187, 188, 190
Ells, 17
Gibson, 195
Gillaspy, 172, 174, 175, 184
185, 186, 188, 195
Hall, 172, 174, 176
178, 189, 190, 755
Harris, 174, 180, 184, 186, 18[illegible]
Johnston, 200
Palmer, 735
Parvin, 176
Peters, 198, 199
Scott, 735
Skiff, 172
Wilson, 180, 185, 186, 194
Thanks; resolutions of—
to officers of the convention, 1034
to the president of the convention, 1022
to the reporters, 1034
to the secretary, 1028
Third reading of articles upon—
amendments to the constitution, 1030
bill of rights, 1006
education and school lands, 1028
executive department, 1017
incorporations, 1012
judicial department, 1019
legislative department, 1008
location of capitol and university, 1017
militia, 1020
miscellaneous subjects, 1033
right of suffrage, 1008
schedule, 1034
state debts, 1021
Thompson, Francis; appointed door-keeper *pro tem.* 5
elected door-keeper, 7
rate of *per diem* of, 759
amount of *per diem* of, 1050
Time of daily meeting of the convention, 64
118
Time of holding elections, 30, 39, 82, 514
Time of meeting of the general assembly, 82, 510
Time of holding schools in each district, 78
770, 816
Time of taking effect of laws, 84, 529, 551
Tithes; provision in relation to the payment of, 99, 118
Titles of acts to contain the subject of the act, 84, 530

TODHUNTER, LEWIS

appointed upon the committee to conduct the president of the convention to his chair, 6
appointed upon the standing committee upon the executive department, 21
appointed upon the standing committee upon the schedule, 22
appointed upon the committee to examine rooms for the convention, 22

Digitized by Google

PAGE.

appointed upon the committee to number the seats in the senate chamber, 82
appointed upon the special committee upon the distribution of the debates, 780
appointed chairman of the committee of the whole upon the report of the standing committee upon miscellaneous subjects, 795
appointed upon the standing committee upon education and school lands, 859
credentials of, 6
made a report from the standing committee upon the executive department, 76
made a report from the special committee upon the distribution of the debates, 972
mileage of, 1026
nominated James Hawkins messenger *pro tem.*, 5
nominated Francis Thompson permanent door-keeper, 7
offered a resolution in relation to the oath to be taken by members of the convention, 8
offered a resolution in relation to the appointment of a committee upon rules of the convention, 10
offered a resolution to furnish the reporter with documents and stationery, 20
offered a resolution in relation to the postage of the convention, 22
offered a resolution calling upon the secretary of state for an abstract of each county in the state, 34
offered a resolution of enquiry in relation to the executive department, 35
offered a resolution in relation to smoking in the hall of the convention, 115
offered a resolution to rescind the time fixed for adjournment *sine die*, 901
presented a petition in relation to the size of counties, 216

remarks upon—

appointment of special committee upon the bill of rights, 223
board of education; length and number of sessions of, 769
compensation of the chaplain, 760, 761
compensation of the secretary of state for distributing Greene's Reports, 1048, 1049
criminal prosecutions; manuer of conducting, 121, 123

PAGE

denizens; persons not citizens, other than foreigners, 136
disposition of the school fund, 849
distribution of the debates, 761, 763, 853, 917, 919, 921, 1005
drawing seats in the senate chamber, 82
furnishing members with additional newspapers, 75
furnishing members with the reports of the supreme court, 89
giving each editor in the state a copy of the debates, 1027
Greene's Reports of the supreme court, 1052, 1053
holding night sessions of the convention, 813
indebtedness of the State; limitation of, 272
jury trial, 119
Lee county; division of, 1036
length of sessions of board of education, 769
limitation of state indebtedness, 272
location of the state university, 816, 837, 822
manner of conducting criminal prosecutions, 121, 121
night sessions of the convention, 813
number and length of the sessions of the board of education, 769
order of business, 884
personal and general explanations, 1065
postage of the convention, 1049
private property taken for roads, 127
publication of the debates, 59
purchasing Greene's reports of the supreme court, 1052, 1053
recommitting the report of the judiciary committee to that committee, 257
re-committing the report of the committee on education and school lands to that committee, 853, 856
removal of the convention from Iowa City, 12
rescinding resolution fixing time for adjournment *sine die*, 1012, 1013
resolution of enquiry, 46
schedule; report upon, 1037
school fund; disposition of, 849
school in each school district, 816, 817, 822
sessions of the board of education, 769
special committee upon the bill of rights, 223

Digitized by Google

PAGE.

TODHUNTER, LEWIS,

remarks upon—

state indebtedness; limitation of, 272
term of school in each school district, 816, 817, 822
trial by jury, 119
university; location of, 739, 841
towns; legislature to pass no special laws for the incorporation of, 84, 531
township business; resolution of enquiry in relation to, 48
township officers; resolution of enquiry in relation to, 48
township plats; legislature to pass no special laws in relation to, 48, 84, 531
township taxes; resolution of enquiry in relation to, 48
township trustees; resolution of enquiry in relation to, 48

TRAER, J. C.

appointed upon the committee to report the number and character of the standing committees of the convention, 20
appointed upon the standing committee upon the distribution of powers, and the legislative department, 21
appointed upon the standing committee upon miscellaneous subjects, 22
appointed upon the special committee upon the basis of representation, 74
appointed upon the committee to superintend the reporting and publishing of the debates, 179
appointed chairman of the committee of the whole upon the report of the committee on incorporations, 289
credentials of, 6
gave notice of an amendment of the rules, 37
leave of absence granted to, 276
made a report from the special committee on basis of representation, 275
mileage of, 1026
moved to lay upon the table the substitute for the resolution in relation to the oath of members of the convention, 9
moved a reconsideration of the vote adopting the report of the committee upon reporting, 40
moved to strike out "three thousand," as the number of copies of debates to be published, 53

PAGE

moved to limit the number of copies of debates to "one thousand five hundred," 54
moved an amendment to resolution concerning the time of the daily meeting of the convention, 64
moved the indefinite postponement of the resolution concerning offering resolutions of enquiry, 86
nominated E. N. Bates for assistant secretary *pro tem*, 5
offered a resolution in relation to the number and character of the standing committees of the convention, 19
offered a resolution of enquiry in relation to the article upon amendments to the constitution, 33
offered a resolution in relation to amendment of the rules, 48
offered a resolution for the appointment of a special committee upon the basis of representation, 62
offered a resolution calling upon the Secretary of State for information in relation to the amount of indebtedness of the counties of this State, 94

remarks upon—

adjournment *sine die* on the fourth of March, 502
age of members of the board of education, 937
age of persons to serve in the militia, 641
amendment of the rules, 49
appointment of special committee upon the basis of representation, 63
apportionment of members of the general assembly, 540, 1014, 1015
basis of representation, 543, 554, 578
biennial sessions of the general assembly, 590
capitol and university; location of, 1017
city and county indebtedness, 516, 517, 520, 222, 528
common schools to be free of charge, 970, 971
compensation of lieutenant governor, 597, 598
continuing in office present legislative and State officers, 646
contracts for State indebtedness in certain cases to be void, 280
courts; number of, 444

Digitized by Google

PAGE

denizens; persons other than foreigners, not citizens, 132, 136
disposition of the school fund, 847, 1001 1003
distribution of the debates, 763, 852, 853 918, 920, 1001
division of Lee county, 1000
enrolling the constitution, 1012
expenses of board of education, 966
furnishing members with twenty-five daily newspapers, 25
furnishing members with slips of debates, 28, 71
furnishing members with additional newspapers, 75
furnishing members with reports of the supreme court, 91, 92, 93
general assembly; apportionment of, 540 1014, 1015
general assembly; residence of members of, 557, 568, 572
Greene's reports of the supreme court; purchase of, 1053, 1054
indebtedness of cities and counties, 421 775, 776, 777
indebtedness of the State; limitation of, 262, 264, 265, 268 270
information in relation to indebtedness of counties, 94
judges of the supreme court; number of, 462
judges; salaries of, 479, 483
Lee county; provision for division of, 1000
liability of stockholders in banks, 787, 788 789
lieutenant governor; salary of, 597, 598
limitation of debate, 505
limitation of State indebtedness, 262, 264 265, 268, 270
location of county seats and boundaries, 533, 534, 537
location of State capitol and university, 1017
making common schools free of charge, 970 971
manner of conducting the business of the convention, 37
militia; age of persons to serve in, 641
number of courts, 444
number of judges of the supreme court, 462
number and classification of senators, 516 517, 520, 522, 523

PAGE

number of representatives and senators, 541, 553
order of business, 216, 732
preferred creditors of banks, 398, 399, 400
printing the journal and constitution, 980
private property taken for public uses, 204
private property taken for roads, 128
prohibition of articles of manufacture and sale, 139
publication of the debates, 40, 41, 42, 48 54, 67, 71
punishment of frauds in banking, 393, 394
purchasing Greene's reports of the supreme court, 1053, 1054
recommitting report of the judiciary committee to that committee, 258
removal of convention from Iowa City, 12, 16
repeal of incorporations, 145, 409
report of the committee on future amendments to the constitution, 604, 607, 624 625, 639
representatives and senators, number of, 541, 553
rescinding resolution fixing the time for adjournment *sine die*, 1013
residence of members of the general assembly, 557, 568, 572
resolution calling for information concerning the amount of indebtedness of counties, 94
retaining in office present legislature and state officers, 646
salaries of judges, 479, 483
salary of the lieutenant governor, 597, 598
school fund; disposition of, 847, 1001, 1003
schools to be free of charge, 970, 971
schools in each school district, 819
senators; number and classification of, 516 517, 520, 522, 523
special committee upon the basis of representation, 63
state bank and branches, 373
state indebtedness; limitation of, 262, 264 265, 268, 270
stockholders and officers in banks; liabilities of, 787, 788, 789
suppression of debate upon the subject of the removal of the convention from Iowa City, 35
supreme court; number of judges of, 462
suspension of specie payments by banks, 403
term of school in each school district, 819
university and capitol; location of, 1017

Digitized by Google

PAGE.

Transfer of stock in banks; provision in relation to, 96, 344
Treason; privileges from arrest except for, 83, 869
Treason, crime of; not pardonable by the governor, 77, 586
what constitutes, 99, 126, 202
conviction only on the testimony of two witnesses to the same overt act, 99, 126 202
Treasurer; term of office of, 77, 588
impeachment of, 83, 527, 551, 555
salary of, 84, 550, 578
first election of, under the new constitution, 914, 996
Trial by jury, 64, 99, 119, 201

remarks of—

Mr. Clark of Alamakee, 119
Clarke of Johnson, 119
Hall, 119
Scott, 119
Todhunter, 119
Trial of judges and state officers, 116, 260 457
Trial of criminals; manner of prosecuting, 64, 99, 119, 201, 736

remarks of—

Mr. Clark of Alamakee, 120, 122, 737
Clarke of Henry, 121, 123, 124, 201 736
Hall, 120, 122, 123, 730
Harris, 119, 120, 123, 736 737
Johnston, 201
Palmer, 122
Parvin, 120, 122
Skiff, 201
Solomon, 122
Todhunter, 121, 123
Wilson, 121, 124, 738, 740
Trowbridge, S. C.; appointed sergeant-at-arms *pro tem.* 5
elected sergeant-at-arms, 7
resolution in relation to employing to distribute the debates, 972
rate of *per diem* of, 759
amount of *per diem* of, 1050
Trustees; resolution of enquiry in relation to the appointment or election of township, 48
resolution of enquiry in relation to the sale of real estate by, 48

U

Uniform operation of general laws, 84, 99 118, 200, 531, 551 575
United States; jurisdiction of, over territory in the State of Iowa, 138, 209

remarks of—

Mr. Emerson, 210, 211
Hall, 210, 212
Harris, 210, 212
Peters, 209, 213
Solomon, 210, 211
Wilson, 209, 210, 211, 212
Winchester, 212
United States; persons in the naval, marine or military service of, not allowed to vote, 36, 869
stocks to be received as security for banking, 96, 344
United States senators; resolution of enquiry in relation to the election of, 644

remarks of—

Mr. Hall, 645
Palmer, 645
Parvin, 645
University fund; provision in relation to, 78, 771, 824, 967
losses by fraud and mismanagement of state officers to be guaranteed to, 272, 277

remarks of—

Mr. Clark of Alamakee, 278
Clarke of Henry, 279
Clarke of Johnson, 277, 278
Gower, 277
Hall, 273, 278
Johnston, 279
Skiff, 277, 278
Young, 279
University lands; provision in relation to, 78, 79, 867
University of the state; duty of the board of education in relation to, 78, 770, 824
location of, 40, 47, 648, 770 811, 824, 838, 877 881, 922, 1017

remarks of—

Mr. Bunker, 934
Clark of Alamakee, 928
Clarke of Henry, 924, 925
Clarke of Johnson, 838, 926

Digitized by Google

PAGE.

Edwards, 877, 930
Gibson, 771, 840
Gillaspy, 877
Gower, 770, 922, 925
Hall, 877, 931
Harris, 926
Johnston, 801
Palmer, 877, 933
Skiff, 839
Solomon, 771
Todhunter, 816, 817, 822
Traer, 1017
Winchester, 801, 839, 1017
"Unmarried"; striking the word from the question in relation to scholars in common schools, 842
Use of private property; compensation for, 97, 126, 202, 412, 420

remarks of—

Mr. Clark of Alamakee, 126, 127, 128
Clarke of Henry, 203, 205, 206, 207
Emerson, 206
Gillaspy, 127, 205
Gower, 205, 206
Hall, 128, 206
Harris, 126, 128, 202, 204
Peters, 204
Scott, 204
Todhunter, 127
Traer, 128, 204
Warren, 207
Wilson, 203, 205, 207
Winchester, 203

V

Vacancies; in office of governor, 77, 587
in general assembly, 83, 524
in district courts, 459
in state offices, 77, 583
elections to fill, 648, 800, 811
Vacating roads, town plats, &c.; resolution of enquiry in relation to, 48
Venue; resolution of enquiry in relation to change of, 48
Veto power of the governor; provision in relation to, 77, 83, 525, 589, 596
Viva voce; elections by general assembly to be, 84, 549
Vote upon the new constitution; manner of taking, 915, 998
Voters; qualification of, 36, 47, 813, 860
registering of, 868, 869
term of residence of, 36, 860, 870

remarks of—

Mr. Clark of Alamakee, 860, 862
Clarke of Henry, 863, 868, 870
Clarke of Johnson, 860, 861, 862, 864, 870
Gibson, 867
Gillaspy, 860
Harris, 860, 864, 867
Marvin, 867
Palmer, 867
Price, 863
Scott, 865
Solomon, 861
Voting; resolution of enquiry in relation to places of, 48

W

Walling, A. T., admitted to the floor of the convention as the reporter for the Keokuk Times, 19
War; appropriations for army in time of, 99, 126
state to have power to contract debts to defend the state in time of, 52, 273, 279
Warrants, judicial; to be issued only in probable cause, 99, 118
WARREN, WM. H.
appointed upon the standing committee upon state debts, 22
appointed upon standing committee upon amendments to the constitution, 22
appointed upon a committee to procure the printing of two thousand copies of the constitution, 1025
credentials of 6
made report from the standing committee upon future amendments to the constitution, 36
made a report from the committee on amendments to the constitution, 1032
mileage of, 1026
moved to reconsider the vote ordering the printing of the report from the standing committee on amendments to the constitution, 37
nominated J. H. Merritt, fireman *pro tem*, 5
offered a resolution to admit the reporter of the Maquoketa Excelsior to the floor of the convention, 23

Digitized by Google

PAGE.

WARREN, W. H.

offered a resolution to refer subjects to committees without debate, 33

remarks upon—

allowing railroad employees to vote, 813
appointment of the special committee on the right of suffrage, 218
city and county indebtedness, 51
conduct of the first messenger, 276
distribution of the constitution in German, 984
distribution of the debates, 1005
drawing seats in the senate chamber 82
filling vacancy in the office of governor, 587
first messenger; conduct of, 276
general assembly; residence of members of, 557
indebtedness of cities and counties, 51
judges; salaries of, 485
mileage of members of the convention, 987
offering resolutions of enquiry, 87
private property taken for public uses, 207
publication of the debates, 27, 28
salary of judges, 485
special committee on the right of suffrage, 218
white; striking from the article on the militia, the word, 641

remarks of—

Mr. Clarke of Henry, 641, 642
Gillaspy, 642
Scott, 641
Winchester, 642

white; submitting to the people the question of striking from the constitution and the article on the right of suffrage the word, 649, 664, 888, 915

remarks of—

Mr. Bunker, 908, 909
Clark, of Alamakee, 709
Clarke of Henry, 667, 676
Clarke of Johnson, 665, 666, 675 580, 888
Edwards, 680, 691
Ells, 672, 675, 691, 905
Gibson, 694
Gower, 680
Hall, 687
Harris, 905
Marvin, 672, 676
Parvin, 699, 913
Peters, 680, 915
Scott, 664, 665
Winchester, 915

white children only to be allowed to attend the common schools, 828

WILSON, JAMES F.

appointed upon the committee upon credentials, 5
appointed upon the committee to report the number and character of the standing committes of the convention, 20
appointed upon the standing committee upon the judicial department, 22
appointed upon the standing committee upon state debts, 22
appointed upon the special committee upon the basis of representation, 74
appointed upon the special committee upon the bill of rights. 226
appointed upon the special committee upon incorporations, 430
appointed upon the standing committee on the schedule, 628
credentials of, 6
dissented from the majority report of the judiciary committee, 117
made a report from the committee on state debts, in relation to city and county indebtedness, 50
made a report from the standing committee on state debts, in relation to the article upon state debts, 52
made a report from the special committee on incorporations, 648
made a report from the standing committee on the schedule, 914
mileage of, 1026
moved an amendment to the resolution in relation to the rules of the convention, 10
moved to furnish members with two slips of the debates, 68
moved an amendment to the preamble, 103
moved an amendment to the bill of rights in relation to the jurisdiction of the United States over territory in Iowa, 138
moved an amendment to the bill of rights in relation to slavery in this state, 209
moved to refer the report of the committee on incorporations to a special committee, 429

Digitized by Google

PAGE.

moved an amendment to resolution in relation to striking the word "white" from the constitution, so that the question should be decided by the number of votes cast for and against the constitution, 912

nominated Francis Thompson door-keeper *pro tem.*, 5

nominated J. H. Merritt for fireman, 7

offered a resolution in relation to the appointment of the standing committees of the convention, 10

offered a resolution to print a list of the members and officers of the convention, with their age occupation, &c., 23

offered a resolution of enquiry in relation to the article upon the legislative department, 23

offered a resolution of enquiry in relation to the article upon amendments to the constitution, 34

offered a resolution in relation to the summoning of members by the sergeant-at-arms, 741

offered a resolution for the employment of an enrolling clerk, 742

offered a resolution in relation to the distribution of the debates, 761

presented a petition in relation to the election of the general assembly, 79

remarks upon—

adjournment over till May, 498, 499

amendment of the rules, 49

appointment of the standing committees of the convention, 19

appointment of the special committee upon the bill of rights, 224

apportionment by the first general assembly under the new constitution, 998

apportionment of representation, 1015

apportionment of senators, 1011, 1012

approval of bills by the governor, 1012

banking laws; repeal of, 404, 405, 406

banking under general laws, 355, 358, 775, 789

bank stock held by municipal corporations, 290

biennial sessions of the general assembly, 563

board of education, 722, 723, 724, 748, 935, 941

boundaries of the state, 142

PAGE

city and county indebtedness, 309, 327, 328, 416, 422

common school system, 953, 965, 969

common schools to be free of charge, 969

compensation of board of education, 958, 963

competency of witnesses and religious tests, 180, 185, 186, 194

contracts for state indebtedness in certain cases to be void, 282, 283

courts; number of 236, 250, 255, 430, 434, 440, 441

criminal prosecutions; manner of conducting, 121, 124, 738, 740

delay in the publication of the debates, 496

denizens; persons not citizens other than foreigners, 135, 136

disposition of the school fund, 993

distribution of the debates, 761, 763

distribution of the constitution in German, 984

districting the state for judicial purposes, 875, 876

drawing seats in the senate chamber, 81

election of judges of the supreme court, 449, 451

election of judges and state officers, 805

enrolling the constitution, 1012

exclusive jurisdiction of the United States over territory in Iowa, 209, 210, 211, 212

expenses of the board of education, 952

first election of supreme judges under the new constitution, 995

first election of county officers and district judges under the new constitution, 996

furnishing members with newspapers, 23

furnishing members with slips of the debates, 71

general assembly; *per diem* and mileage of, 528, 529

general banking, 355, 358, 775, 789

general banking laws; repeal of, 404, 405, 406

general banking; security for, 775, 789

giving each editor in the state a copy of the debates, 1026

holding night sessions of the convention, 573, 813, 814

impairing the right of property, 208

impeachment of state officers, 574

indebtedness of cities and counties, 309, 327, 328, 416, 422

Digitized by Google

PAGE.

WILSON, JAMES F.

remarks upon—

indebtedness of the state; limitation of, 261, 263, 264, 265, 266
instructing committees to report by a certain time, 627
issuing of paper money by other than banks, 404
judges of supreme court; election of, 449 451
judges of supreme court; number of, 448 462
judges; salaries of, 479, 484, 490 491, 493, 506
judicial districts; number of 634
judicial districts; plan of dividing the state into, 875, 876
jurisdiction of the United States over territory in Iowa, 209, 210, 211, 212
Lee county; division of, 999, 1000
liability of stockholders in banks, 363, 370
lieutenant governor; office of, 593. 595
limitation of debate, 361; 362, 500
limitation of state indebtedness, 261, 263 264, 265, 266
making common schools free of charge, 969
manner of conducting the business of the convention, 38
manner of conducting criminal prosecutions, 121, 124, 738, 740
mileage and *per diem* of members of the general assembly, 528, 529
mileage of members of the convention, 986
municipal corporations holding bank stock, 290
natural rights of man, 732
night sessions of the convention, 573 813, 814
number of courts, 236, 250, 255 430, 434, 440, 441
number of judges of the supreme court, 449, 451
number of judicial districts, 634
number of representatives and senators, 541, 576
oath to be taken by members of the convention, 9
offering resolutions of enquiry, 87
order of business, 216, 221, 222, 718, 879
paper money issued by other than banks, 404

PAGE.

per diem and mileage of members of the general assembly, 528, 529
personal and general explanations, 1060 1063
place of meeting of the convention, 23
place and time of meeting of the board of education, 965
preferred creditors of banks, 396, 399, 400
printing the reports of the special committee on the bill of rights, 655
printing the reports of the special committee on the right of suffrage, 657
printing the journal and constitution, 973 974, 775, 977, 978
private property taken for public uses, 203 205, 207
publication of laws in newspapers, 529, 530
punishment of frauds in banking, 393
recommitting the report of the committee on education and school lands to that committee, 854
religious tests and competency of witnesses, 180, 185, 186, 194
removal of the convention from Iowa City, 17, 18
re-organization of judicial districts, 507, 636
repeal of corporations, 105, 106, 107, 111 114, 153, 154, 155 160, 161, 407, 408, 409
repeal of laws in regard to banking, 404 405, 406
repeal of tax laws, 280
report of committee on state debts on city and county indebtedness, 50, 51
report of the committee on amendments to the constitution, 610, 616, 619, 620 621, 622, 623. 625 626, 1031, 1032
report of special committee on incorporations, 781
representatives and senators; number of, 541, 576
rescinding the resolution fixing time for adjournment *sine die*, 1031
resolution of enquiry in relation to banking, 39
resolution of enquiry in relation to the judicial department, 66
rules of the convention, 10
salaries of judges, 479, 484, 490 491, 493, 506
salaries of state officers, 550, 555, 578

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PAGE.

schedule ; report upon the, 1036, 1037, 1038 1039, 1041, 1042 1043, 1044, 1045, 1046
school fund ; disposition of, 993
schools to be free of charge, 969
security for general banking, 775, 789
senators and representatives ; number of, 541, 576
special committee on the bill of rights, 224
state bank and branches, 384, 385, 785, 859
state boundaries, 142
state indebtedness; limitation of, 261. 263 264, 265, 266
stockholders in banks ; liabilities of, 363 370
submission of laws to the people, 804
supreme judges ; election of, 449, 451
supreme judges ; number of, 448, 462
system of common schools, 953, 965, 969
taxing corporations, 779
tax laws ; repeal of, 280
temporary court for the trial of judges and state officers, 458
term of office of the governor and lieutenant governor, 586
time and place of meeting of the board of education, 965
United States ; exclusive jurisdiction over territory in Iowa, 209, 210, 211, 212
vote of the people upon the question of calling a convention to revise the constitution, 1031, 1032

WINCHESTER, S. G.

appointed upon the standing committee upon the preamble and bill of rights, 21
appointed upon the special committee upon the basis of representation, 74
appointed upon the special committee upon the distribution of debates, 780
appointed chairman of the committee of the whole upon the report of the committee upon the right of suffrage, 860
asked leave of absence from the convention, 1034
credentials of, 6
mileage of, 1026
nominated James Hawkins first messenger, 7
offered a resolution concerning the appointment of officers of the convention, 6
offered a resolution in relation to the publication of the debates, 22

PAGE

offered a resoluion in relation to the time of daily meeting of the convention, 64
offered a resolution for adjournment *sine die* on the twenty-third of February, 478
offered a resolution instructing committees to report by a certain time, 626
offered a resolution in relation to forwarding mail matter to members of the convention after adjournment, 1012
presented a petition in relation to a prohibitory liquor law, 647

remarks upon—

appointment of a special committee on the article upon incorporations, 785
apportionment of the first general assembly under the new constitution, 998
biennial sessions of the general assembly, 562
courts ; number of, 445
distribution of the debates, 761, 763, 766 850, 851, 852
election of members of the general assembly, 514
exclusive jurisdiction of the United States over territory in Iowa, 212
furnishing members with slips of the debates, 29
furnishing members with reports of the supreme court, 90
general assembly; time of election of, 514
indebtedness of the state ; limitation of, 265, 270
judges ; salaries of, 481
judicial districts ; number of, 633
jurisdiction of the United States over territory in Iowa, 212
limitation of debate, 501
limitation of state indebtedness, 265, 270
location of state university, 801, 839, 1017
number of courts, 445
number of judicial districts, 633
political parties upon the question of slavery, 915
printing the journal and constitution, 978
printing the report of the special committee on the bill of rights, 654
private property taken for public uses, 203
prohibitory liquor law, 812
recommitting report of the committee on education and school lands to that committee, 855
repeal of corporations, 158

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PAGE.

report of the committee on future amendments to the constitution, 603, 604
salaries of judges, 481
slavery; political parties upon the question of, 915
special committee on incorporations, 785
state indebtednees; limitation of, 265, 270
striking the word "white" from the article on the right of suffrage, 915
suppression of the debate upon the subject of the removal of the convention from Iowa City, 35
United States; jurisdiction over territory in Iowa, 212
university; location of, 801, 839, 1017
"white;" striking from the article on militia of the word, 942
"white;" striking from the article on the right of suffrage of the word, 915
Witnesses; a accused in criminal cases to have compulsory process for, 64, 99, 119, 201
qualifications of, 99, 142, 179, 651 734

remarks of—

Mr. Bunker, 199
Clarke of Alamakee, 191
Clarke of Henry, 130, 131, 132, 134 136, 137
Clarke of Johnson, 178, 196, 634, 735
Edwards, 187, 188, 190
Ells, 175
Gibson, 195
Gillaspy, 172, 174, 176, 184 185, 186, 188, 195
Hall, 172, 174, 176, 178 189, 190, 735
Harris, 174, 180, 184, 186 188
Johnston, 200
Palmer, 735
Parvin, 176
Peters, 198, 199
Scott, 735
Skiff, 172
Wilson, 180, 185, 186, 194

Writs of election to be issued by the governor to fill vacancies in the general assembly, 83, 524
Writs of habeas cerpus to be suspended only when in case of invasion or rebellion the public safety may require it, 99, 125, 202
Yeas and nays; to be taken when requested by two members, 21

PAGE

Yeas and nays taken upon—

abolishing the office of superintendant of public instruction, 596
adjournment, 504, 508, 627, 687 789
adjourning over till May, 497
adjourning over till Monday, 315, 500, 507 646, 647
adjourning *sine die* on the third of March, 497
adjourning *sine die* on the fourth of March, 504
adopting the report of the special committee on incorporations, 779
age of members of the board of education, 938
age of governor and lieutenant governor, 597
age of senators, 567
amendment of Mr. Hall, to include negroes, Indians, knaves and fools, in proposition of Mr. Clarke of Henry in relation to the rights of persons to use the testimony of all persons, 176
amendment of Mr. Wilson, requiring the decision of the question concerning striking the word "white" from the article on the right of suffrage to be according to the number of votes given for and against the new constitution, 913
adpointment of special committee on the bill of rights, 225
appointment of special committee to ascertain the cause of delay in the publication of the debates, 496
appointment of special committee on incorporations, 480
appointment of the special committee on the right of suffrage, 219
article on the right of suffrage; confining resolution to striking out the word "wite" to the, 912
attorney general; election of, 478
basis of general banking, 775
basis of representation, 554, 555
biennial sessions of the general assembly, 567
calling a convention to be decided by a majority of votes upon that question, 1032
city and county indebtedness, to be incurred by a vote of the citizens, subject to legislative restrictions, 421

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PAGE

city and count5 indebtedness to be limited to ten per cent upon the value of the taxable property, 421
city and county indebtedness to be limited to nine per cent upon the value of the taxable property, 423
city and county indebtedness to be limited to eight per cent upon the value of the taxable property, 421
city and county indebtedness to be limited to six per cent upon the value of the taxable property, 422
city and county indebtedness to be limited to five per cent upon the value of the taxable property, 422, 812
city and county indebtedness to be limitrd to two hundred thousand dollars, 427
city and county indebtedness not to be allowed, 812
common schoool system, 837
common schools to be exclusively for white children, 837
compensation of members of the board of education, 953
compensation for private property taken ror public uses, 205, 207
competency of witnesses and religious tests, 180, 235
contracts for state indebtedness beyond the codstitutional limitation to be void, 283
court of common pleas; establishment of, 644
criminal prosecutions; manner of conducting, 741
disposition of the school fund, 1003
editors of papers in this state to be urnished with a copy of the debates, 1027
election of attorney general, 478
election of senators, 550
establishment sf the office of lieutenant governor, 595
excepting the spebial committees on the bill of rights and the right of suffrage, from the operation of the resolution instructing all committees to report by the Monday following, 627
expenses of the board of education, 967
final passage of the article upon amendments to the constitution, 1033
final passage ot the article upon the bill of rights, 1008
final passage of the article upon education and school lan ls, 1030

PAGE

final passage of the article upon the executive department,
final passage of the article upon incorporations, 1024
final passage of the article upon the judicial department, 1020
fincl passage of the article upon the legislative department, 1017
final passage of the article upon the location of the capitol and university, 1017
Onal passage of the article upon miscellaneous subjects, 1034
final passage of the article upon the right of suffrage, 1008
final passage of the article upon the schedule, 10.0
final passage of the article upon state debts, 1021
final passage of the new constitution 1055
first election of supreme judges under the new constitution, 995
first election of lieutenant governor under the new constitution, 996
first electian in this state under the new constitution, 997
furnishing members of the convention vention with fifty slirs of the debates, 80
furnishing members with twenty-six slips of the debates, 68
furnishing members with twenty-five slips of the debates, 30
furnishing members with twenty-four slips of the debates, 68
furnishing members with daily newspapers, 26
furnishing members with additional newspapers, 76
furnishing members with the reports of the supreme court, 94
giving each editor in the state a copy of the debates, 1027
going into committee of the whole upon the report of the committee on education and school lands, 6 8, 720
going into committee of the whole upon the report of the special committee upon the ri7ht of suffrage, 882, 883
governor to be a member of the board of education, 931
Greene's reports of the supreme court; purchase of, 10 4
holding night sessions of the convention, 814
impairing the rig'it of property, 209

Digitized by Google

PAGE.

indefinite postponement of the subject of the removal of the convention from Iowa City, 22

indefinite postponement of the resolution in relation to entering reports, resolutions &c., at length upon the journal, 85

indefinite postponement upon the subject of offering resolutions of enquiry, 86

indefinite postponement of the resolution to adjourn over till May, 500

indefinite postponement of the resolution to add two members to the committee on accounts and expenditures, 762

instructing the committees of the convention to report by the Monday following, 628

judges of the supreme court; number of, 467

judicial districts; number of, 457, 576

jurisdiction of the United States over territory in Iowa, 213

laying upon the table the report of the committee upon reporting and publishing the debates, 45

laying upon the table a resolution of enquiry, 46

laying upon the table a resolution of enquiry in relation to the education of negroes and mulattoes, 62

laying upon the table a resolution to furnish members with the report of the supreme court 90

laying upon the table resolutions in relation to fixing the time of adjournment *sine die*, 361, 379

laying upon the table a resolution to adjourn *sine die* on or before the fourth of March, 503

laying upon the table a resolution to instruct the committees of the convention to report by the Monday following, 627

laying upon the table the report of the select committee on incorporations, 780, 792

laying upon the table a provision in relation to the prohibition of intoxicating liquors, 812

laying upon the table a provision in relation to the voting of railroad employees, 813

laying upon the table an amendment in relation to the common school system of this state, 829

laying upon the table a provision in relation to the location of the state university, 840

PAGE.

laying upon the table a provision in relation to the prohibition of negroes and mulattoes coming into this state, 913

laying upon the table a resolution concerning the mileage of members of the convention, 989

Lee county; provision in relation to the division of, 1000

liability of stockholders in banks, 790

liability of officers of banks, 790

lieutenant governor; establishment of the office of, 595

limitation of state indebtedness to five hundred thousand dollars, 277

limiting state indebtedness to two hundred thousand dollars, 277

location and removal of county seats and boundaries; 552, 556

making common schools freee of charge, 972

mileage of members of the convention, 989 990, 1026

municipal and political corporations to incur indebtedness by a vote of their citizens, subject to legislative restrictions, 321

municipal and palitical corporations not to be allowed to incur indebtedness, 812

municipal and political corporations to be allowed to incur indebtedness to the amount of ten per cent upon the value of their taxable property. 421

municipal and political incorporations to be allowed to incur an indebtedness to the amount of nine per cent. upon the value of their taxable property, 422

municipal and political incorporations to be allowed to incur an indebtedness to the amount of eight per cent. upon their taxable property, 421

municipal and political incorporations to be allowed to incur an indebtedness to the amount of seven per cent. upon their taxable property, 421

municipal and political incorporations to be allowed to incur an indebtedness to the amount of six per cent. upon their taxable property, 422, 779

municipal and political incorporations to be allowed to incur indebtedness to the amount of five per cent. upon their taxable property, 422, 812

night sessions of the convention, 814, 958

number of the judges of the supreme court, 467

Digitized by Google

PAGE.

number of judicial districts, 475, 576
number of senators and representatives,
ordering the report of the special committee on incorporations to a third reading, 794
ordering to a third reading the article upon the location of the capitol and university, 934
ordering to a third reading the article upon education and schools, 967
ordering the previous question upon amendment of Mr. Solomon to the report of the special committee on incorporations, 792
ordering the previous question upon the third reading of the article on the right of suffrage, 888
ordering the previous question upon amendment of Mr. Clarke of Henry in relation to board of education, 942
ordering the previous question upon the location of the capitol and university, 934
per diem of members of the convention, 990
political and municipal corporations to incur indebtedness by a vote of their citizens, subject to legislative restrictions, 421
political and municipal corporations not to be allowed to incur indebtedness to other incorporations, 812
political and municipal corporations to be allowed to incur indebtedness to the amount of ten per cent. upon the value of their taxable property, 421
political and municipal corporations to be allowed to incur indebtedness to the amount of nine per cent. upon the value of their taxable property, 423
political and municipal corporations to be allowed to incur indebtedness to the amount of eight per cent. upon the value of their taxable property, 421
political and municipal corporations to be allowed to incur indebtedness to the amount of seven per cent. upon the value of their taxable property, 421
political and municipal corporations to be allowed to incur indebtedness to the amount of six per cent. upon the value of their taxable property, 421, 779
political and municipal corporations to be allowed to incur indebtedness to the amount of five per cent. upon the value of their taxable property, 422, 812
postponing for a time the consideration of the fourth section of the bill of rights, 200

PAGE

postponing the consideration of the report on the legislative department, 219
postponing the consideration of the report of the committee on incorporations, 288
postponing till the fourth of March the resolution to adjourn *sine die* on that day, 504
printing the reports of the select committee upon the bill of rights, 657
printing the reports of the select committee upon the right of suffrage, 651, 664
printing the journal of the convention, 975, 983
private property taken for public uses; compensation for, 205, 207
privileges and immunities; repeal of, 172
prohibition of intoxicating liquors, 209
prosecuting attorneys, 477
prosecutions of criminals; manner of conducting, 741
provision in relation to future amendments to the constitution, 639, 640
provision in relation to the expenses of the board of education, 953
publishing two thousand copies of the debates, 68
punishment of frauds in banking, 420
punishment of persons issuing bank notes, unless lawfully engaged in banking, 420
purchasing Greene's Reports of the supreme court, 1054
recess of the convention until two o'clock, p. m. 887, 989
recess of the convention until seven o'clock, p. m., 814, 958
recommitting the article upon amendments to the constitution to the standing committee upon that subject, 1032
recommitting the article upon the legislative department to the standing committee upon that subject, 1011, 1016, 1017
reconsidering the vote adopting the report of the committee on debates, 45
reconsidering the vote ordering the printing the reports of the special committee on the right of suffrage, 663
reconsidering the vote rejecting the report of the special committee on incorporations, 785
reconsidering the vote refusing to go into committee of the whole upon the resolution reported from the special committee on the right of suffrage, 886

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PAGE.

Yeas and nays taken upon—

referring to the committee on education and school lands a resolution of enquiry in relation to the education of negroes and mulattoes, 62

registry of the voters of the state, 870

religious tests and competency of witnesses, 180, 735

re-organization of courts and judicial districts, 638

repeal of special privileges and immunities granted to corporations, 172

rescinding the resolution fixing the time for adjournment *sine die*, 991, 1012

residence of members of the general assembly, 557, 568, 573

residence of voters, 870, 871

resolution of enquiry in relation to judicial districts, 878

restrictions in banking laws, 428

returning to the secretary of state documents furnished to members of the convention, 991

salaries of judges; from two to three thousand dollars; district court from one thousand five hundred to two thousand five hundred dollars, 480

salaries of judges of the supreme court not less than two thousand five hundred dollars, 481

salaries of judges of the supreme court not less than two thousand dollars, 481

salaries of district judges not less than one thousand five hundred dollars, 481

salaries of the supreme judges at not more than two thousand dollars; and district judges at not more than one thousand five hundred dollars, 845

salaries of the district judges; reconsidering the vote fixing them at not less than one thousand five hundred dollars, 485

salaries of district judges at not less than two thousand dollars, 491

salaries of the supreme judges; reconsidering the vote fixing them at two thousand dollars, 491

salaries of the supreme judges to be two thousand five hundred dollars each, and of the district judges two thousand each, until 1860, when they shall be fixed by the legislature, but not to exceed four thousand dollars each, 4[illegible]

PAGE.

salaries of the supreme judges to be two thousand dollars each, and district judges one thousand six hundred dollars each, until 1860, when they shall be fixed by law, 507

salaries of the district judges to be one thousand eight hundred dollars each, 506

salary of lieutenant governor, 598

salaries of state officers, 556

school system of this state, 837

schools to be confined to white children, 837

school fund; disposition of, 1003

special legislation, 575

state indebtedness to be limited to five hundred thousand dollars, 277

state indebtedness to be limited to two hundred and fifty thousand dollars, 277

striking out "three thousand" as the number of debates to be published, 53

striking out twenty-five as the number of slips of the debates to be furnished to members, 54

striking from the article on miscellaneous subjects the section in relation to the location of the university, 811

striking from the article upon miscellaneous subjects the section in relation to the location of public lands by the state, 811

submission of laws to the people, 812

submission to the people of the question of locating the capitol and university, 9, 34

submitting to the people the question of striking the word "white" from the article on the right of suffrage, 917

substitute of Mr. Clarke of Johnson for provisions in relation to banking, 429

substituting the word "equal" for the word "independent" in the first section of the article on the bill of rights, 734

substitute of Mr. Clarke of Henry in relation to the powers of the board of education, 845, 951

substitute of Mr. Wilson for the report of the committee on education and schools, 937

substituting the secretary of state for S. C. Trowbridge to distribute the debates, 1005

superintendent of public instruction; abolition of the office of, 596

taxing corporations, 779

term of office of district judges, 475

term of office of the governor and lieutenant governor, 591, 597

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PAGE.

time of electing members of the general assembly, 576
university; provision in relation to, 841
white children only to be allowed to attend the common schools in this state, 837
word "white" in the article on the right of suffrage, 912

YOUNG, JAMES A.
appointed upon the standing committee upon the schedule, 22
appointed upon the special committee upon incorporations, 430
appointed upon the special committee to ascertain the cause of the delay in printing the debates, 496
appointed chairman of the committee of the whole upon the report of the committee on amendments to the constitution, 606
asked to be excused from serving upon the standing committee on the schedule, 648
credentials of, 6
mileage of, 1026
moved to lay upon the table the report of the committee upon reporting and publishing the debates, 45
moved a re-consideration of the vote ordering the reports of the special committee upon the right of suffrage to be printed, 657

remarks upon—

adjournment *sine die* on the fourth of March, 503
adding two members to the committee on accounts and expenditures, 958
bank of the state, 382
city and county indebtedness, 421
classification and number of senators, 516 521
conduct of first messenger, 276
distribution of the debates, 852, 917
election of members of the general assembly, 514, 575
first messenger; conduct of, 276
furnishing members with slips of debates, 28, 29
furnishing members with the reports of the supreme court, 90
general assembly; time of election of, 514 575
guaranteeing school and university fund against losses from the fraud or mismanagement of state officers, 279
indebtedness of cities and counties, 421
judicial districts; number of, 632, 634
liability of stockholders in banks, 370
number and classification of senators, 516 521
number of judicial districts, 632, 634
preferred creditors of banks, 399
printing the reports of the special committee on the bill of rights, 655
resolution calling for information concerning the amount of county and city indebtedness, 94
resolution of enquiry in relation to the judicial department, 66
senators; number and classification of, 516, 521
state bank and branches, 382
stockholders in banks; liabilities of, 370
suppression of the debate upon the subject of the removal of the convention from Iowa City, 35
Young, Rev. Mr., opened the convention with prayer on the first day of its session, 5

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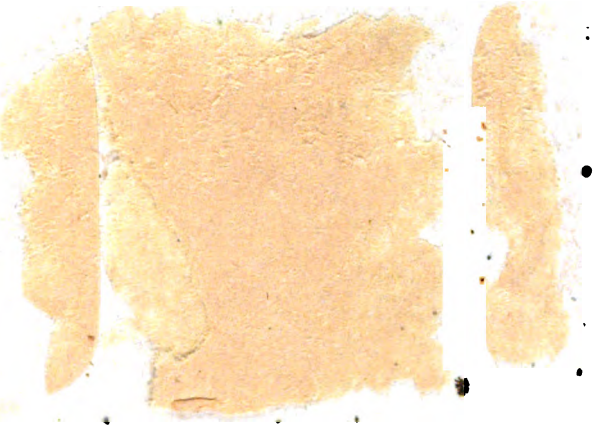

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